



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**John Grace  
Cappadine  
Ballinahinch  
Birdhill  
Co. Tipperary**

**10th November 2022**

**Section 5 referral Reference R22-70 – John Grace**

Is the replanting of a failed ash plantation at Kilroughil near Bridgetown with Sitka spruce – broadleaves 90% - 10% development, and if so, is it exempted development?

A Chara,

I refer to your application received on 25th 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.: R22-70**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R22-70**

**Is the replanting of a failed ash plantation at Kilroughil near Bridgetown with Sitka spruce – broadleaves 90% - 10% development, and if so, is it exempted development?**

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

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Class 16 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended;
- (d) Article 8F of the Planning and Development Regulations 2001, as amended;
- (e) The works as indicated in submitted documents from the referrer.

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

- (a) The replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) 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 replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) is exempted development by virtue of Schedule 2, Part 3, Class 16 of the Planning and Development Regulations 2000 (as amended) and Article 8F of the Planning and Development Regulations 2000 (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 replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) at Kilroughil, O'Brien's Bridge, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

A handwritten signature in dark ink, appearing to read 'Anne O'Gorman', with a horizontal line drawn underneath it.

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

**10th 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: 80768

Reference Number: R22-70

Date Referral Received: 25th October 2022

Name of Applicant: John Grace

Location of works in question: Kilroughil, O'Brien's Bridge, Co. Clare

**Section 5 referral Reference R22-70 – John Grace**

Is the replanting of a failed ash plantation at Kilroughil near Bridgetown with Sitka spruce – broadleaves 90% - 10% development, and if so, is it exempted development?

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Class 16 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended;
- (d) Article 8F of the Planning and Development Regulations 2001, as amended;
- (e) The works as indicated in submitted documents from the referrer.

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

- (a) The replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) 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 replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) is exempted development by virtue of Schedule 2, Part 3, Class 16 of the Planning and Development Regulations 2000 (as amended) and Article 8F of the Planning and Development Regulations 2000 (as amended)

**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 replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) at Kilroughil, O' Brien's Bridge, Co. Clare is considered development which is exempted development

**Signed:**

  
**GARETH RUANE**  
**SENIOR EXECUTIVE PLANNER** *AR*

**Date:**

**10th November 2022**

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

<b>FILE REF:</b>	R22-70
<b>APPLICANT(S):</b>	John Grace
<b>REFERENCE:</b>	Whether the replanting of a failed Ash plantation with Sitka Spruce – broadleaves (90% to 10%) is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Kilroughil, O' Briensbridge, Co Clare
<b>DUE DATE:</b>	21 <sup>st</sup> November 2022

**Site Location**

The proposal site is located in a rural area approximately 2.5km north of Bridgetown on the lower slopes of Lackereagh Mountain.

**Recent Planning History**

No recent planning applications on the proposal site or adjoining lands.

**Background to Referral**

This Referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by John Grace. He has stated that he is the joint owner and forestry manager of the lands to which this referral relates.

The applicant is seeking a Section 5 Declaration as to whether the replanting of a failed Ash plantation with Sitka Spruce – broadleaves (90% to 10%) is or is not development and is or is not exempted development.

The site has an area of 3.13ha.

It is stated that the tree species selection is suited to the exposed nature of the site and will not be destroyed by the wild deer population in the area.

**Statutory Provisions**

**Planning and Development Act, 2000 (as amended)**

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

S.3.(1) In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

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

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

Section 4(1)(i) of the Planning and Development Act 2000, as amended

The following shall be exempted development:

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

Section 4(4) of the Planning and Development Act 2000 (as amended):

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

Section (4A) states of the Planning and Development Act 2000 (as amended)

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

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

(b) as respects which an environmental impact assessment or an appropriate assessment is required,  
to be exempted development. ]

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 8F of Planning and Development Regulations 2001 (as amended)

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

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

(b) works ancillary thereto,

shall be exempted development.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 16

The replacement of broadleaf high forest by conifer species.

Conditions and limitations:

The area involved shall be less than 10 ha.

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,

(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line 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,

(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,

(vii) 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 replanting of a failed Ash plantation with Sitka Spruce – broadleaves (90% to 10%) at Kilroughil, O' Briensbridge is or is not development and is or is not exempted development.

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

The total area proposed for replanting under this referral is 3.13ha.

The proposal has been assessed having regard to the limitations set out in Article 9 of the Planning and Development Regulations. It is noted that the proposed works are in close proximity to Recorded Monument ref CL045-051. The replanting works will infringe on the western side of the zone of notification surrounding the monument. However, a farm lane separates the works from the monument and the replanting will not involve the excavation, alteration or demolition of the monument.

It is noted that the proposed planting will require a licence (under the Forestry Act 2014) and the question of Environmental Impact Assessment and Appropriate Assessment in respect of the proposed development is further dealt with through the Forestry Licence process. However, to satisfactorily assess the proposal in the context of Article 9(viiB) of the Planning and Development Regulations, an appropriate assessment screening and determination is attached to this report.

### **Conclusion**

Having regard to the information provided, it is considered that the replanting of 3.13ha of failed Ash plantation with Sitka spruce / broadleaves (90% to 10%) at Kilroughil, O' Briensbridge, Co. Clare constitutes both 'works' and 'development'. Regard has also been had to Section (4A) (Planning and Development Act 2000) and Class 16 (Part 3 Exempted Development- Rural- Article 6) of the Regulations made thereunder, which states that the replacement of broadleaf high forest by conifer species is exempted development when the area is less than 10 ha.

## Recommendation

### **The following question has been referred to the Planning Authority:**

Whether the replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) at Kilroughil, O' Briensbridge, Co. Clare is considered to be development and if so, is it exempted development.

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Class 16 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended;
- (d) Article 8F of the Planning and Development Regulations 2001, as amended
- (e) The works as indicated in submitted documents from the referrer.

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

- (a) The replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) 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 replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) is exempted development by virtue of Schedule 2, Part 3, Class 16 of the Planning and Development Regulations 2000 (as amended) and Article 8F of the Planning and Development Regulations 2000 (as amended)

Now therefore Clare County Council (Planning Authority) hereby decides that the replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) at Kilroughil, O' Briensbridge, Co. Clare is development and is exempted development.



Executive Planner

Date: 08/11/2022



Senior Executive Planner

Date: 08/11/22

# Clare County Council

## Screening for Appropriate Assessment & Determination

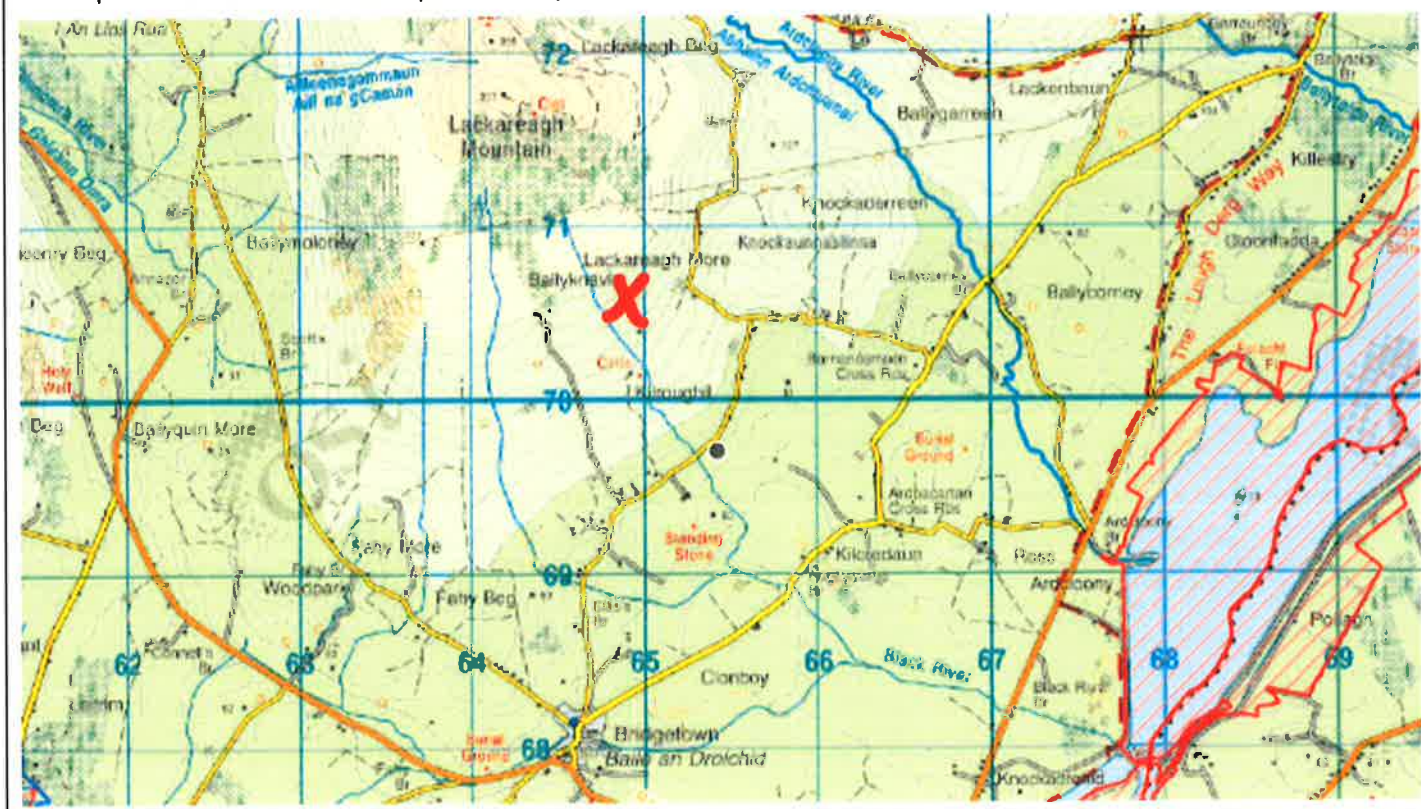
1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all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

**Table 1: Project Details**

<b>Planning File Reference</b>	R22-70
<b>Applicant Name</b>	John Grace
<b>Development Location</b>	at Kilroughil, O' Briensbridge, Co. Clare
<b>Application accompanied by an EIS</b>	No
<b>Application accompanied by an NIS</b>	No

**Description of the project (To include a site location map):**

Whether the replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) is or is not development and is or is not exempted development



**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.

Having regard to the nature of the proposed development and the established use of the site, the likely zone of impact is no greater than 3km.

**Table 2 (a): European Sites within 3km 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)
Slieve Bernagh Bog SAC	<p><u>Annex I habitats:</u></p> <ul style="list-style-type: none"> <li>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</li> <li>European dry heaths [4030]</li> <li>Blanket bogs (* if active bog) [7130]</li> </ul>	2.26km
Lower River Shannon SAC	<p><u>Annex I habitats:</u></p> <ul style="list-style-type: none"> <li>Sandbanks which are slightly covered by sea water all the time [1110]</li> <li>Estuaries [1130]</li> <li>Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>*Coastal lagoons [1150]</li> <li>Large shallow inlets and bays [1160]</li> <li>Reefs [1170]</li> <li>Perennial vegetation of stony banks [1220]</li> <li>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li><i>Salicornia</i> and other annuals colonizing mud and sand [1310]</li> <li>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</li> <li>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>Water courses of plain to montane levels with the <i>Ranunculum fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</li> <li><i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</li> <li>*Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</li> </ul> <p><u>Annex II species:</u></p> <ul style="list-style-type: none"> <li>Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> [1029]</li> <li>Sea Lamprey <i>Petromyzon marinus</i> [1095]</li> </ul>	2.95km

<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.



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)
	<ul style="list-style-type: none"> <li>• Brook Lamprey <i>Lampetra planeri</i> [1096]</li> <li>• River Lamprey <i>Lampetra fluviatilis</i> [1099]</li> <li>• Atlantic Salmon <i>Salmo salar</i> (only in fresh water) [1106]</li> <li>• Bottlenose Dolphin <i>Tursiops truncatus</i> [1349]</li> <li>• Otter <i>Lutra lutra</i> [1355]</li> </ul>	

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	Yes – the site is in the catchment of the Lower River Shannon SAC
2	Impacts on terrestrial habitats & 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 & 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?</i>  <i>Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No likely in-combination effects  No likely emissions

#### 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.**

1	<p><b>Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.</b></p> <p><i>Please answer the following if the answer to question 1 in table 2 was "yes" or "unknown".</i></p> <p><i>Does the development involve any of the following:</i></p>	
1.1	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	<p>No – a tributary of the Black River runs along the western boundary of the site providing hydrological connectivity between the site and the Lower River Shannon SAC.</p> <p>However the SAC is approximately 4.5km downstream (measured along river flow path) and any potential impacts on water quality will be negated by the separation distance involved.</p>
1.2	<p>Discharges either directly (via pipe from the development) or indirectly (via sewer) to surfacewater or groundwater</p> <p>What is the likely volume of the discharge?</p>	No
1.3	<p>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?</p> <p>What is the likely volume of the abstraction?</p>	No
1.4	<p>Is removal of topsoil proposed within 500m of watercourses?</p> <p>What transportation requirements are provided?</p> <p>Does the removal involve reduction in area, population density or fragmentation of area of any habitat or species?</p>	No
1.5	<p>Infilling or raising of ground levels within 500m of watercourses?</p> <p>What transportation requirements are provided?</p> <p>Does the infilling or raising involve interference with area, population density or fragmentation of area of any habitat or species?</p>	No
1.6	<p>Construction of drainage ditches - (scale?)</p> <p>Where the run off is directed to?</p> <p>Is the drainage run off directed to a European site where species are identified and whose conservation status may be impacted by this drainage?</p>	No

1.7	Installation of waste water treatment systems; percolation areas; septic tanks within 500m of watercourses?	No
1.8	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> )	No
1.9	Crossing or culverting of rivers or streams, installation of weirs, temporary watercourse crossings or any interference with a watercourse.	No
1.10	Storage of chemicals or hydrocarbons (including oils and fuels) within 500m of a watercourse	No
1.11	Development within catchment of a European site of a scale or type which involves the production of an EIS	No
1.12	Consideration of effects in combination with existing development?	No likely in-combination effects

**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

<b>Planning File Reference</b>	R22-70
<b>Proposed Development</b>	Whether the replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%) is or is not development and is or is not exempted development
<b>Development Location</b>	at Kilroughil, O' Briensbridge, Co. Clare
<b>European sites within impact zone</b>	Slieve Bernagh Bog SAC Lower River Shannon SAC
<b>Description of the project:</b>	
The replanting of 3.13ha of failed Ash plantation with Sitka spruce – broadleaves (90% - 10%)	
<b>Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site</b>	
<b>Slieve Bernagh Bog SAC</b> <u>Annex I habitats:</u> <ul style="list-style-type: none"> <li>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</li> <li>European dry heaths [4030]</li> <li>Blanket bogs (* if active bog) [7130]</li> </ul>	
<b>Lower River Shannon SAC</b> <u>Annex I habitats:</u> <ul style="list-style-type: none"> <li>Sandbanks which are slightly covered by sea water all the time [1110]</li> <li>Estuaries [1130]</li> <li>Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>*Coastal lagoons [1150]</li> <li>Large shallow inlets and bays [1160]</li> <li>Reefs [1170]</li> <li>Perennial vegetation of stony banks [1220]</li> <li>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li><i>Salicornia</i> and other annuals colonizing mud and sand [1310]</li> <li>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</li> <li>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>Water courses of plain to montane levels with the <i>Ranunculon fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</li> <li><i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</li> <li>*Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</li> </ul> <u>Annex II species:</u> <ul style="list-style-type: none"> <li>Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> [1029]</li> </ul>	



- Sea Lamprey *Petromyzon marinus* [1095]
- Brook Lamprey *Lampetra planeri* [1096]
- River Lamprey *Lampetra fluviatilis* [1099]
- Atlantic Salmon *Salmo salar* (only in fresh water) [1106]
- Bottlenose Dolphin *Tursiops truncatus* [1349]
- Otter *Lutra lutra* [1355]

**Describe how the project or plan (alone or in combination) is likely to affect the European site(s).**

No likely direct or indirect effects.

The proposal site is downslope of the Slieve Bernagh Bog SAC and does not have connectivity to same.

There is hydrological connectivity between the proposal site and the Lower River Shannon SAC via a tributary of the Black River. However, the proposal is unlikely to negatively impact on water quality in the SAC due to the significant separation distance between the development site and the European site (over 4km).

**If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?**

N/A – no likely significant effects

**Documentation reviewed for making this statement**

- County Development Plan (including Flood Maps, SEA & AA)
- NPWS website
- Documents received as part of the referral

**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></b>	
<b>(b) There is no potential for significant effects to European Sites<sup>3</sup></b>	Yes
<b>(c) The potential for significant effects to European Site(s) cannot be ruled out<sup>4</sup></b>	

<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.

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

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

<b>(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010<sup>5</sup></b>	
<b>Completed By</b>	Caroline Balfe, Executive Planner
<b>Date</b>	08/11/2022

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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)



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	JOHN GRACE CAPPADINE BALLINAHINCIT BIRDHILL Co. Tipperary
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<div style="text-align: right;"> </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 replanting of a failed ash plantation at Killeoughkil near Bridgetown with Sitka Spruce-broadleaves 90%-10% exempted development.

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

The ash plantation of 3.13 ha. has failed due to Ash Dieback. There is a Department of Agriculture Requirement that the failed area be replanted with trees. I am seeking to replant with 90% Sitka Spruce and 10% broadleaves as this tree species selection is suitable to the site which is somewhat exposed weatherwise. Additionally this mixture will not be wiped out by the large wild deer population in the area.

- (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)*

Species Map of the overall forest of 12.08 ha.

~~Aerial Map of location of site.~~

Department of Agriculture Location Map

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

(a) Postal Address of the Property/Site/Building for which the declaration sought:	<u>K.L. Roughtil</u> <u>O'Briensbridge</u> <u>Co. Clare</u>
(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?	<u>No</u>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<u>Joint OWNER</u> <u>and forestry MANAGER</u>
(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>	
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<u>N/A</u>
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	<u>N/A</u>
(g) Were there previous planning application/s on this site? If so please supply details:	<u>N/A</u>
(h) Date on which 'works' in question were completed/are likely to take place:	

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

John P. GraceDATE: 22/10/2022



### **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:

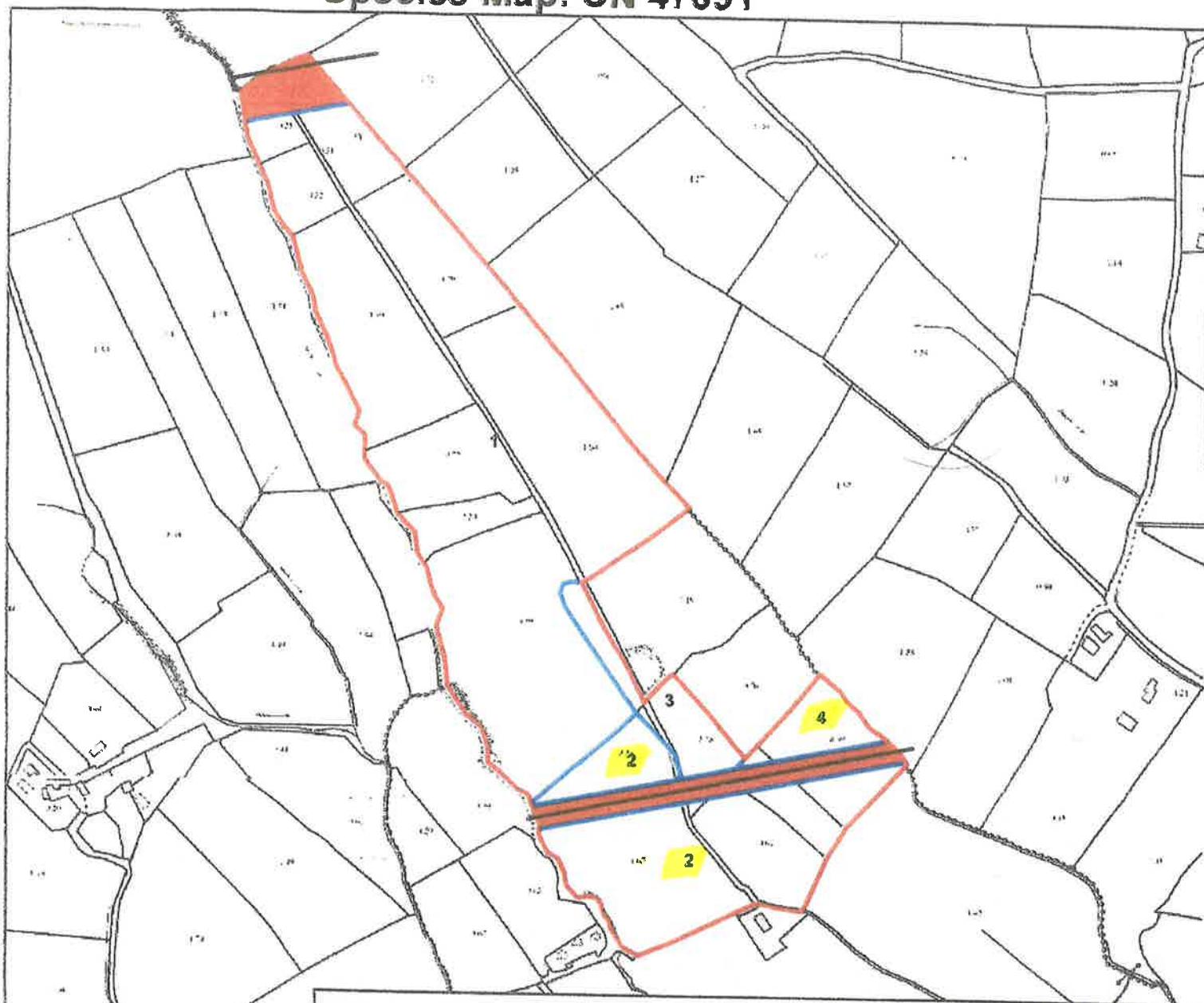
Planning Department,  
Economic Development Directorate,  
Clare County Council  
Aras Contae an Chlair,  
New Road,  
Ennis,  
Co. Clare  
V95DXP2

- (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:.....			

# Species Map: CN 47691



OS No: 44 Contract No: 47691 Completion Date: 30/05/2008

County: Clare

Townland: Kilroughil

Applicant Name: John Grace

Applicant Address: Lower Garraun, Ballinahinch, Birdhill, Co. Tipperary

Plot No.	Area (Ha)	GPC	LUT	Species	Species Area	MT	P/Yr	Est. YC	Excl. (ha)	Excl. Type
1	8.39	4	CHF	JL	7.55	P	2008	14	0.30	ESB
1	0.00	4	CHF	SP	0.84	G	2008	10	0.00	N/A
2	2.74	5	BHF	ASH	2.74	P	2008	10	0.43	ESB
3	0.55	4	BIO	BIO	0.55	P	2008	0	0.04	ESB
4	0.39	5	BHF	ASH	0.39	P	2008	10	0.13	ESB
Total	12.08	--	--	--	12.08	--	--	--	0.90	--

Note: Plot 3 is an area of open space/set back form Ringfort.

0 40 80 160 Meters

1:5,000



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GPC	GPC Type	Total Area(Ha)
4	Diverse	8.94
5	Broadleaf (except oak & beech)	3.13

Area Cert By:

Date: 1/1/11

Yvonne Smyth (Msc GIS)

Species Cert By:

Date: 1/1/11

John Paul Fahy (NISIF)





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8327320	28/10/2022	9465547	INTERNET BO	27/10/2022	29/10/2022	1/1

Line	Catalogue No.	Description	Quantity	Pack size	Cost each	Net cost	VAT Rate
Your Order: INTERNET BO		Our Order No.: 000672806		From:			
Cost Centre:							
Delivery address:		Caroline Tuohy 35 The Maples Co. Clare Oakleigh Wood, Ennis V95K 8YA					
Contact:		Caroline Tuohy					
Our Delivery Note: 000672806046		Shipping Date: 29/10/2022					
1	QD0-5428955	MONITOR RISER BLACK	1	EA	30.990	30.99	S
2	QD0-1200986	SUPP LAPTOP 64260089	1	EA	22.990	22.99	S
3	QD0-7128710	WASTE PAPER BIN BK ECOB	3	EA	6.290	18.87	S
4	QD0-4329675	MH INKTO HARIBO GR 200G	1	PK	0.000	0.00	S
		THIS BILL REFERS TO GOODS SHIPPED ON A PREVIOUS INVOICE427243					
This Is A Back Order Shipment							

\*Indicates this item is out of stock and will be despatched as soon as stock is available  
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Invoice Amount - VAT	Carriage	Protection Plus	VAT %	VAT Total	Invoice Amount + VAT	Paid In Advance	Amount due
72.85	0.00	0.00	S=23.00%	16.76	89.61	89.60	€0.01

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Terms: Net 30 days

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