



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Leonard & Annmarie Vaughan, Leonard Vaughan's garage
c/o Michael Hehir
Mckenna Consulting Engineers
Bank Place
Miltown Malbay
Co. Clare**

24th November 2022

Section 5 referral Reference R22-72 – Leonard & Annmarie Vaughan

Is the installation of fuel pumps on lands owned by Leonard Vaughan's garage development, and if so, is it exempted development?

A Chara,

I refer to your application received on 1st November 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 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.: R22-72



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R22-72

Is the installation of fuel pumps on lands owned by Leonard Vaughan's garage development, and if so, is it exempted development?

AND WHEREAS, Leonard & Annmarie Vaughan 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 –

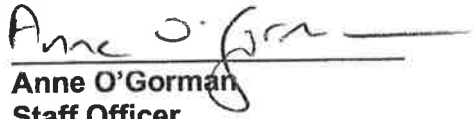
- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) The planning history of the site including Pl. Ref 06/1400 and conditions 1 and 2 of same;
- (d) The works as indicated in submitted documents from the referrer as received by the Planning Authority on 1st November 2022.

And whereas Clare County Council has concluded:

- (a) the installation of fuel pumps on land owned by Leonard Vaughan's garage constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development consisting of installation of fuel pumps, by reason of its proximity to the N67 and its layout would constitute a traffic hazard and would contravene conditions no. 1 and 2 of Pl. Ref 06/1400;
- (d) There are no provisions under the Planning Acts or Regulations whereby the subject development would constitute 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 installation of fuel pumps on land owned by Leonard Vaughan's garage at Spanish Point 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.

A handwritten signature in black ink, appearing to read "Anne O'Gorman", is written over a horizontal line.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

24th 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:

80835

Reference Number:

R22-72

Date Referral Received:

1st November 2022

Name of Applicant:

Leonard & Annmarie Vaughan

**Location of works in question:
Road, Miltown Malbay, Co. Clare**

Leonard Vaughan's Garage, Spanish Point

Section 5 referral Reference R22-72 – Leonard & Annmarie Vaughan

Is the installation of fuel pumps on lands owned by Leonard Vaughan's garage 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) The Planning history of the site including Pl. Ref 06/ 1400 and conditions 1 and 2 of same;
- (d) The works as indicated in submitted documents from the referrer as received by the Planning Authority on 1st November 2022.

AND WHEREAS Clare County Council has concluded:

- (a) the installation of fuel pumps on land owned by Leonard Vaughan's garage constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended;
- (c) the said development consisting of installation of fuel pumps, by reason of its proximity to the N67 and its layout would constitute a traffic hazard and would contravene conditions no. 1 and 2 of Pl. Ref 06/1400;
- (d) There are no provisions under the Planning Acts or Regulations whereby the subject development would constitute exempted development.

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 installation of fuel pumps on land owned by Leonard Vaughan's garage at Spanish Point Road, Miltown Malbay, Co. Clare is considered development which is not exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

24th November 2022

Road Design Planning Report

Planning reference R22-72	Road Design Reference R22-72/BM/OUT/7919	Date of issue 18/11/2022
Applicant	Leonard & Annmarie Vaughan	
Date Submitted	01/11/2022	
Project Address	Leonard Vaughans Garage, Spanish Point, Miltown Malbay, Co. Clare	
Development Description	Section 5: Is the Installation of fuel pumps, on lands owned by Leonard Vaughans Garage, Exempted development	
Issued to	planoff@clarecoco.ie	

A Chara

Following a site visit on 18/11/2022 and a review of this Section 5 please see below for comments.

- The Road Design Office have concerns in relation to Road Safety with the positioning of these fuel pumps. We believe the owner of Leonard Vaughan's Garage should submit a full Planning Application with the Inclusion of a Road Safety Audit, A series of Drawings outlining the access and egress of the overall property and demonstrating same with an Auto tracking model with a HGV and Car.
- We would also note, as part of our Road Design Planning Report on this Full Planning Application we will be conditioning the requirement to set back the Applicants boundary to facilitate the future provision of a footpath on this side of the carriageway.

Signed:



Date: 18/11/2022

Brian Murphy
Assistant Engineer
Road Design Office

COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: 22/ 72
APPLICANT(S):
REFERENCE: Whether the installation of fuel pumps on land owned by Leonard Vaughan's garage is or is not development and is or is not exempted development.
LOCATION: Miltown Malbay , County Clare
DUE DATE: 25th Nov 22

Site Location

The site is located on lands zoned commercial at Miltown Malbay and is zoned commercial .

Recent Planning History

15/ 352 Leonard Vaughan Crash Repairs Permission granted for development which will consist of the provision of an off-licence for the sale of intoxication liquor for consumption at Leagard South.

06/ 1400 Leonard Vaughan. Permission granted to alter and extend his existing premises. The development will consist of the following: to demolish a section of his existing garage and replace it with a new structure containing a convenience shop, storeroom, kitchen, office and bathroom. The upgrading of the remaining garage to include: service areas, storerooms, office and staff facilities. The construction of a new coal store. The construction of a canopy over existing courtyard. The building of new public toilets. The provision of new stonewalls and gates along with associated site works.

Condition 1 stated the proposed development shall be carried out in accordance with details received 23rd June 2006, 5th February 2007, and 9th March 2007.

Condition 2 (b) stated the developer shall ensure that no parking associated with the construction and operation of the proposed development occurs on the N67 in front of the site details of which shall be submitted to the planning Authority for agreement and approval prior to commencement of development. Developer shall inform suppliers and delivery gods operators of this requirement.

Although correspondence was received re compliance with condition following the grant of permission under 06/ 1400, no details were submitted to demonstrate compliance with condition.

UD 22/ 50 Warning letter was served 14th July for the installation of fuel pumps without the benefit of planning permission.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by McKenna Consultants on behalf of Leonard Vaughan's garage.

The applicant is seeking a Section 5 Declaration as to whether the installation of fuel pumps on land owned by Leonard Vaughan's garage is or is not development and is or is not exempted development.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

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

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.

Exempted Development

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;

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

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

Classes 55 and 56 relate to works within curtilage of business premises, pertain to antennae and renewable energy installation. The works carried out do not include antennae and renewable energy installation and do not refer to petrol stations explicitly.

Assessment

Particulars of the Development

The applicant has submitted :

- Sight layout drawing showing pumps and sight line
- Photographic survey
- Site location maps

Planning Exemption Assessment

I refer to the definition of works (Section 2) which includes any act or operation of construction or alteration and to section 3 which specifically includes the carrying out of any works on, in, over or under land. It is considered that the relocation of petrol pumps within a forecourt constitutes works and development . It is also considered under section 4 that the works affect the external appearance of the garage and forecourts.

The next consideration is to determine whether this development is exempted development or not exempted development. Regard is had to planning permission 06/ 1400 and the conditions pertaining to same especially conditions 1 and 2 relating to overall layout and proposals to ensure that no parking associated with the construction and operation of the proposed development occurs on the N67 in front of the site. Condition 2 (b) specifically required details of this to be submitted to the Planning Authority for agreement and approval prior to commencement of development and the condition also required that developer shall inform suppliers and delivery goods operators of this requirement.

I note under 06/ 1400 that development was to be carried out in accordance with details received 23rd June 2006, 5th February 2007, and 9th March 2007. The relocation of pumps from the approved location under 06/ 1400 constitutes a material alteration of the development approved.

In relation to condition 2 (B) it is noted that while proposals were submitted re compliance with conditions, no details were submitted for compliance with 2 (B). The development carried out under pl.06/ 1400 is therefore unauthorised.

The relocation of the pumps from the approved location would materially contravene conditions 1 and 2 of 06/ 1400, and as such would require the benefit of planning permission.

There are no other provisions in the Planning Acts or Regulations whereby the proposal would constitute exempted development .

Recommendation

The following question has been referred to the Planning Authority:

Whether the the installation of fuel pumps on land owned by Leonard Vaughan's garage, Miltown Malbay Co. Clare, is development, and is or is not exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) The planning history of the site including Pl. Ref 06/1400 and conditions 1 and 2 of same;
- (d) The works as indicated in submitted documents from the referrer as received by the Planning Authority on 1st Nov 22 .

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

- (a) the installation of fuel pumps on land owned by Leonard Vaughan's garage constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development consisting of installation of fuel pumps, by reason of its proximity to the N67 and its layout would constitute a traffic hazard and would contravene conditions no. 1 and 2 of Pl. Ref 06/1400;
- (d) There are no provisions under the Planning Acts or Regulations whereby the subject development would constitute exempted development.

Now therefore Clare County Council (Planning Authority), hereby decides installation of fuel pumps on land owned by Leonard Vaughan's garage is development and is not exempted development.



Ellen Carey
Executive Planner

Date: 23/11/22



Garreth Ruane
Senior Executive Planner

Date: 23/11/22 .

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

Planning File Reference	R 22/73
Applicant Name	Leonard Vaughans
Development Location	Leagard Miltown Malbay
Application accompanied by an EIS	
Application accompanied by an NIS	
Description of the project (To include a site location map):	
<p>Section 5 referral</p> <p>Whether the the installation of fuel pumps on land owned by Leonard Vaughan's garage 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)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)).

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

European Sites ²	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)
Mid Clare coast SPA	Cormorant (<i>Phalacrocorax carbo</i>) [A017] ☐ Barnacle Goose (<i>Branta leucopsis</i>) [A045] ☐ Ringed Plover (<i>Charadrius hiaticula</i>) [A137] ☐ Sanderling (<i>Calidris alba</i>) [A144] ☐ Purple Sandpiper (<i>Calidris maritima</i>) [A148] ☐ Dunlin (<i>Calidris alpina</i>) [A149] ☐ Turnstone (<i>Arenaria interpres</i>) [A169] ☐ Wetland and Waterbirds [A999]	1.9km
Carrowmore Point to Spanish Point and the Islands	Annex I habitats: <ul style="list-style-type: none"> • *Coastal lagoons [1150] • Perennial vegetation of stony banks [1220] • *Petrifying springs with tufa formation (Cratoneurion) [7220] • Reefs [1170] 	1.9km

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site	no
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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.

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

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

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	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species. <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>	
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	NA
1.2	Discharges either directly (via pipe from the development) or indirectly (via sewer) to surfacewater or groundwater What is the likely volume of the discharge?	NA
1.3	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
1.4	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
1.5	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
1.6	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
1.7	Installation of waste water treatment systems; percolation areas; septic tanks within 500m of watercourses?	NA
1.8	Construction within a floodplain or within an area liable to flood (See www.floodmaps.ie , internal flood risk maps, County Development Plan SFRA and www.cframs.ie)	NA
1.9	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	Impacts on terrestrial habitats and species. <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>	
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	Impacts on designated marine habitats and species. <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>	
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	Impacts on birds in SPAs <i>Please answer the following if the answer to question 5 in table 2 was yes.</i> <i>Does the development involve any of the following:</i>	
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	R22/73
Proposed Development	Section 5 referral
Development Location	MiltownMalbay
European sites within impact zone	Mid Clare coast SAC Carrowmore Point to Spanish Point and the Islands
Description of the project:	
Whether the installation of fuel pumps on land owned by Leonard Vaughan's garage is development and is or is not exempted development	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As above	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
Not likely having regard to the limited extent and nature of development and absence of pathway connection to SAC	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Not significant	
Documentation reviewed for making this statement	
<ul style="list-style-type: none"> - County Development Plan (including Flood Maps, SEA & AA) - NPWS website - Documents received as part of the planning application - EPA Code of Practice 	
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

³ 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) There is no potential for significant effects to European Sites³	There is no potential for significant effects to European Sites³
(c) The potential for significant effects to European Site(s) cannot be ruled out⁴	The potential for significant effects to European Site(s) can be ruled out⁴
(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 2010⁵	N/A
Completed By	Ellen Carey

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.

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.

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.

Date	23 rd November 22
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CLARE COUNTY COUNCIL
ARAS CONTAE AN CHLAIR
NEW ROAD
ENNIS
CO CLARE

02/11/2022 10:10:38

Receipt No: L1CASH/0/340623
***** REPRINT *****

LEONARD & ANNMARIE VAUGHAN
C/O MICHAEL HEHIR
MCKENNA CONSULTING ENGS
BANK PLACE, MILTOWN MALBAY
REF. R22-72

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

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: planoft@clarecoco.ie
 Website: 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	Leonard & Annmarie Vaughan Leonards Vaughans Garage Spanish Point Road, Miltown Malbay, Co. Clare
(b) Telephone No.:	085 7580101 (MICHAEL HEHIR - Agent)
(c) Email Address:	Michael@mcKENNACE.com
(d) Agent's Name and address:	Michael Hehir McKenna Consulting Engineers Bank Place Miltown 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?

Is the installation of fuel pumps, on lands owned by Leonard Vaughans Garage, exempted development?


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

- The Vaughans own the lands to the west of Leonard Vaughans Garage (it was previously Malbay Concrete Products)
- The Vaughans moved the pumps a few meters to the west of their original location
- The new pump location does not impede on sightlines from the existing forecourt. Refer to site layout drawing.
- Moving the pumps allowed for more parking spaces where the old pumps were located
- Only the pumps were moved. New aerogard pipework was used from 'old' to 'new' location. Refer to photographic survey.

- (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)

1. site layout drawing showing pumps & sightlines
2. Photographic Survey
3. Site location maps

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>Leonard Vaughan's Garage</u> <u>Spanish Point Road</u> <u>Miltown Malbay</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>Owners</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>	<u>N/A</u>
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<u>yes</u>
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	<u>UD22-050 is</u> <u>active on this site</u>
(g) Were there previous planning application/s on this site? If so please supply details:	<u>P06/1400 & P15/352</u>
(h) Date on which 'works' in question were completed/are likely to take place:	<u>July 2022</u>

SIGNED: 
 (Michael Kehin - Agent)

DATE: 24-10-2022

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:.....			

2edia 5 R-12-73.





122-73.





Photo 1 – location of pumps



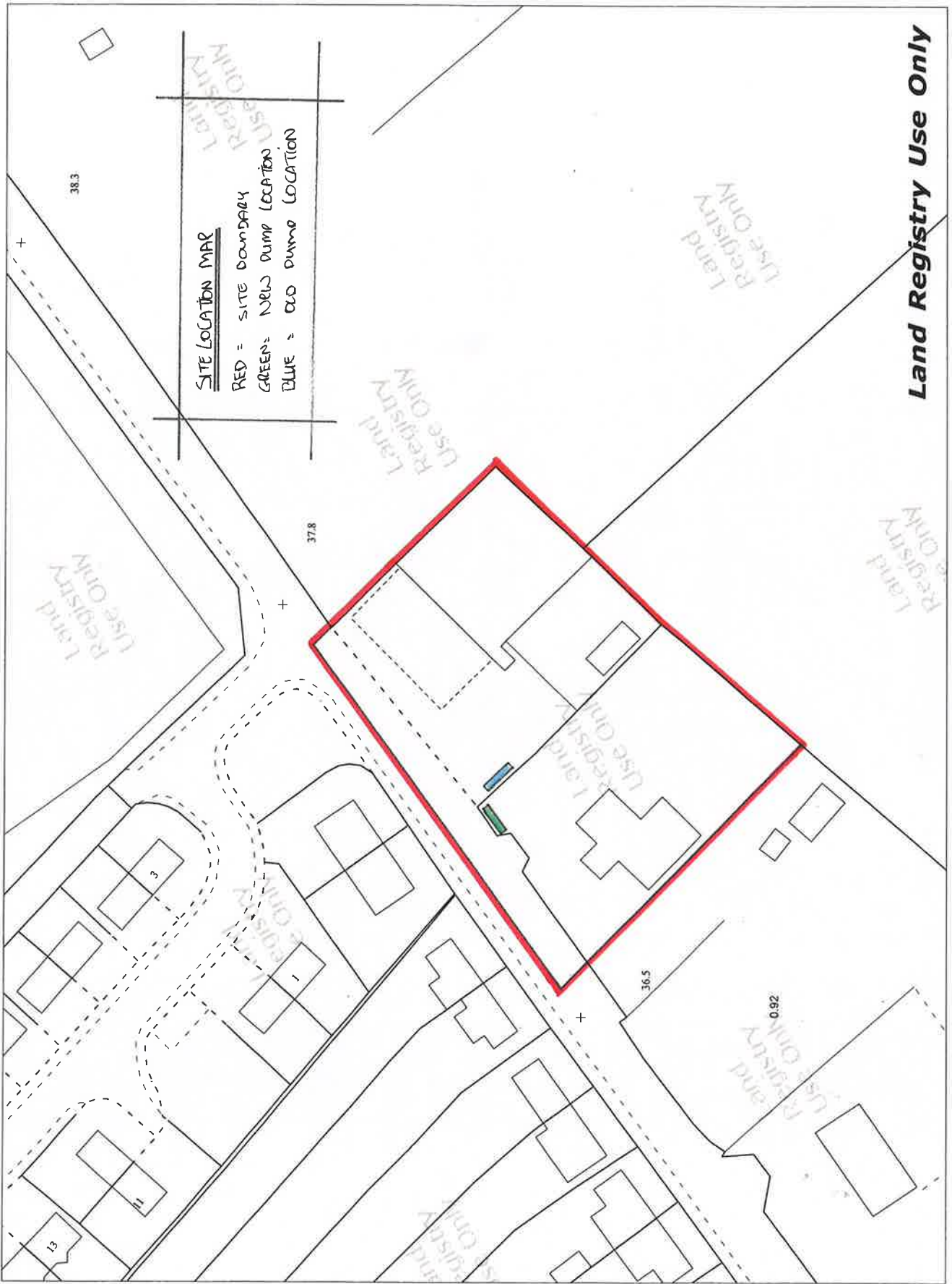
Photo 2 – The pipework connecting the 'old pumps location' to the 'new pumps location'

Surveyed 1999
Revised 2015
Levelled

Land Registry Compliant Map



505236



678627

ITM CENTRE PT COORDS
505120,678741

DESCRIPTION

MAP SHEETS

1:2500
4257-C



Produced by University College Dublin,
Richview, Clonsilla, Dublin 14
On behalf of Ordnance Survey Ireland,
Phoenix Park, Dublin 8

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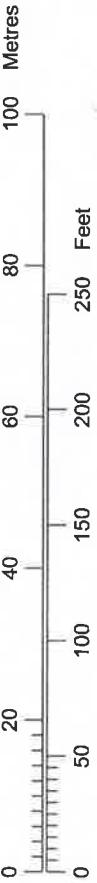
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678655

505236

Plot Ref. No. 25287098_1_1
Plot Date 14-FEB-2017

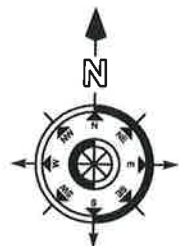


Scale:- 1:1,000
Scála:- 1:1,000

678655

505003

ALL WORK TO BE CARRIED OUT IN STRICT ACCORDANCE WITH CURRENT BUILDING REGULATIONS - AS PER THE BUILDING CONTROL (AMENDMENT) REGULATIONS 1997-2014 & THE BUILDING REGULATIONS 1997-2017 WITH REFERENCE TO UPDATES TO THE TECHNICAL GUIDANCE DOCUMENTS AS PER THE DEPARTMENT OF ENVIRONMENT, HERITAGE & LOCAL GOVERNMENT.



ROAD EDGE

OUTLINE OF TRUCK USING PUMPS

YELLOW BOX

EXISTING SIGN

PREVIOUS LOCATION OF PUMPS

NEW LOCATION OF PUMPS

DRAFT
NOT ILLUSTRATION PURPOSES

ALL WORK TO BE CARRIED OUT IN STRICT ACCORDANCE WITH CURRENT BUILDING REGULATIONS - AS PER THE BUILDING CONTROL REGULATIONS 1997-2014 & THE BUILDING REGULATIONS 1997-2017 WITH REFERENCE TO UPDATES TO THE TECHNICAL GUIDANCE DOCUMENTS AS PER THE DEPARTMENT OF ENVIRONMENT, HERITAGE & LOCAL GOVERNMENT.

P -	FIRST ISSUE	24/10/22	MH
REV.	DESCRIPTION	DATE	BY

CLIENT Leonard Vaughans Garage
JOB Spanish Point Road,
Miltown Malbay, Co. Clare
TITLE Site Layout Drawing

McKenna Consulting Engineers
Civil & Structural
Bank Place, Miltown Malbay, Co. Clare.
Email - info@mckennace.com
Tel. - 065 7085651

SCALES	AS SHOWN	DRG. No.
DATE	24/10/'22	22308/P/001/P-
DRAWN	MH	
CHECKED	TMcK	
APPROVED	TMcK	

SITE LAYOUT DRAWING
SCALE 1:200