



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

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**John & Anne Marie O'Driscoll
c/o Michael Duffy
1 Clos na hEaglaise
Kilfenora
Co. Clare
V95 E659**

16th December 2022

Section 5 referral Reference R22-78 – John & Anne Marie O'Driscoll

Is the construction of an agricultural entrance gate and the relocation of a 1.2m boundary wall development, and if so, is it exempted development?

A Chara,

I refer to your application received on 22nd 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 Stiúirtheacht 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.: R22-78



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R22-78

Is the construction of an agricultural entrance gate and the relocation of a 1.2m boundary wall development, and if so, is it exempted development?

AND WHEREAS, John & Anne Marie O'Driscoll 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 Class 9 and Class 11 (b) Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended
- (c) Article 9 (Restrictions on Article 6) of the Planning and Development Regulations 2001, as amended
- (d) The details of the proposed works as indicated in submitted documents from the referrer as received by the Planning Authority on the 22nd November 2022.

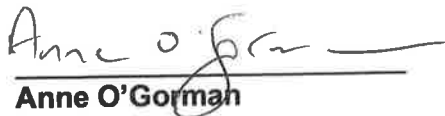
And whereas Clare County Council has concluded:

- (a) the proposed 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 development comes within the scope of Article 6(1) of the Planning and Development Regulations 2001, as amended, and also Class 9 and Class 11 (b) of Part 1 of Schedule 2 to those Regulations,
- (d) However the works relative to the entrance and boundary setback come within the restrictions on exempted development contained in Article 9(1)(a)(ii) of the Planning & Development Regulations 2001, as amended, as the entrance comprises the formation of a means of access to a public road the surfaced carriageway of which exceeds four metres in

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 construction of an agricultural entrance gate and the relocation of 1.2 metre boundary wall at Toongonean, Doolin, 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

16th December 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: 80995
Reference Number: R22-78
Date Referral Received: 22nd November 2022
Name of Applicant: John & Anne Marie O'Driscoll
Location of works in question: Teergonean, Doolin, Co. Clare

Section 5 referral Reference R22-78 – John & Anne Marie O'Driscoll

Is the construction of an agricultural entrance gate and the relocation of a 1.2m boundary wall 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 Class 9 and Class 11 (b) Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended
- (c) Article 9 (Restrictions on Article 6) of the Planning and Development Regulations 2001, as amended
- (d) The details of the proposed works as indicated in submitted documents from the referrer as received by the Planning Authority on the 22nd November 2022.

AND WHEREAS Clare County Council has concluded:

- (a) the proposed 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 development comes within the scope of Article 6(1) of the Planning and Development Regulations 2001, as amended, and also Class 9 and Class 11 (b) of Part 1 of Schedule 2 to those Regulations,
- (d) However the works relative to the entrance and boundary setback come within the restrictions on exempted development contained in Article 9(1)(a)(ii) of the Planning & Development Regulations 2001, as amended, as the entrance comprises the formation of a means of access to a public road the surfaced carriageway of which exceeds four metres in width.

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 development consisting of the construction of an agricultural entrance gate and the relocation of 1.2 metre boundary wall at Teergonean, Doolin, Co. Clare is considered development which is not exempted development.

Signed:


GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

16th December 2022

**CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNER'S REPORT**

FILE REF:	R22-78
APPLICANT(S):	John and Anne-Maire O Driscoll
REFERENCE:	Whether the construction of an agricultural entrance gate and the relocation of 1.2 boundary wall is or is not development and is or is not exempted development .
LOCATION:	Doolin , County Clare
DUE DATE:	19th Dec 22

Site Location

The subject site comprise the north western and south eastern sides of the R 479 at the locations marked in red on the site location map received.

Planning History on Site

The following history relates to developments

Planning History in the Vicinity

16/ 8014 _Clare Co Council . Permission for proposal to carry out the following development: Burren and Cliffs of Moher Geopark Heritage Walking Trail, circa 8.5km of a walking trail on a route between the Russell Centre, Toomullin and Ballaghline, Doolin including (a) Installation of Trail Head information signage at Russell Centre, Toomullin and Ballaghline, Doolin; (b) Installation of waymarker directional posts along the route; (c) Installation of stiles. In accordance with the Habitats Directive, Appropriate Assessment Screening has been carried out on the project, in relation to any potential impacts upon the Blackhead-Poulsallagh Complex SAC (site code 000020) and the Cliffs of Moher SPA (site code 004005) at Toomullin Ballaghline Doolin

16/ 8008 Clare Co Council. Permission for for the provision of public footpath, street lighting and associated site works at Doonmacfelim Doolin . (These works related to the section of road between Fitz's Cross and Fisher St. only. It did not extend to the section of road in front of the subject site.

Section 38 Roads Act

I refer to the attached report completed by Enda Mc Namara S.E.E. regarding the approval for the proposed controlled pedestrian crossing , concrete footpath, and public lighting on the R479 in Doolin, and Tergonean Doolin. Approval for the scheme was recommended 1st Nov 21.

It is noted in this regard that the works relate only to the southern side of the R479.

Background to Referral

This referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by John and Anne Marie O Driscoll .The applicant is seeking a Section 5 Declaration as to whether the construction of an agricultural entrance gate and the relocation of 1.2 boundary wall is or is not development and is or is not exempted development.

Particulars of Proposal

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

- Completed application form
- Location map scale 1 : 2500
- Description of works as per application form

'The Roads Authority intends to construct a footpath and a revised entrance to the applicant's land directly across the road on the southern side from the subject application location. It also wishes to relocate the boundary wall of the subject site on the northern side to improve the road alignment. The applicants wish , as part of this work to have a gate located in the relocated wall on the northern side directly opposite the gate to the lands being relocated to facilitate the new footpath. They require this gate for transferring cattle on their lands without the need to drive cattle down this busy road'.

Referrals

Email report PJ Carmody 25th Nov 22

The West Clare MD office would have no objections to the proposed entrance and would be supportive of same. The location of the proposed entrance will lead to greater visibility and a reduction in turning movements which will enhance road safety 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*.

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.

'Structure' is defined as any building, structure, excavation, or other thing constructed or made on, in or under any land or any part of a structure so defined and where the context admits includes the land on, in or under which the structure is situate.

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.

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.

Schedule 2, Article 6, Part 1 of the Planning and Development Regulations 2001 (as amended) sets out the following classes of exempted development:

Column 1 Description of Development	Column 2 Conditions & Limitations
Class 9 Sundry Works The construction, erection, renewal, or replacement other than within or bounding the curtilage of a house of any gate or gateway.	The height of any such structure shall not exceed 2m.

Column 1 Description of Development	Column 2 Conditions & Limitations
<p>Class 11</p> <p><i>The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house of -</i></p> <p><i>(a) any fence (not being a hoarding or sheet metal fence),</i> <i>(b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.</i></p>	<p><i>1. The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres.</i></p> <p><i>2. Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered.</i></p>

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 comprise 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

Primary Legislation

Having regard to Section 2(1) of the Planning and Development Act 2001 (as amended), I consider that the proposed developments as outlined above, come within the scope of "structure" and "works" and hence constitutes development in accordance with Section 3(1) of the Planning and Development Act 2001 (as amended).

The Regulations

Development on the norther western side of the road

Class 9 relates to the construction of a gate or gateway at a location other than within the curtilage of a house. The limitation on this is that the height any such structure shall not exceed 2m . No details of the height of the gateway have been submitted but is understood that it will be a field gate of similar type to those erected on the lands owned by the application of the south eastern side of the road and therefore is under 2m in height .

Class 11 relates to the construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house of any fence any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete. The limitations are that the height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres and that every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered.

In this instance the applicant proposes to 'relocate the boundary wall of the subject site on the northern side'. The existing boundary comprise a mixture of dry stone wall with intermittent hedging and some sections which appear to be sod and stone. The height of the front boundary varies but mostly does not exceed 1.2m. Although not expressly stated, it is understood from the details received that it is proposed to reuse the stone from the existing wall to create the new dry stone wall and for the height of the new wall not to exceed 1.2m.

Applying the above exemption to works proposed I consider that the proposed development comes within the scope of Class 9 and Class 11 (b) because they relate to the provision of walls and gateways at a location other than within or bounding the curtilage of a house. For exempted development to apply, all conditions and limitations of Class 9 and Class 11 (b) are required to be complied with. In this instance having regard to the assessment set out above I am also satisfied that the development complies with these limitation.

Article 9(1)(a) of Planning and Development Regulations 2001 (as amended) Development to which Article 6 relates shall not be exempted development for the purposes of the Act. The following are considered relevant to the assessment of this referral:

Under Article 9 (1)(a) of the same Regulations, *development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

(b) 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. **There is no planning history on the subject site.**
- (ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width. **The proposed development will consist of the formation 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. **Having inspected the site, noting that the site is within the speed limit zones of the village, and that it is proposed to set back the front boundary as part of the works and given that the entrance will be mostly used by agricultural vehicles, it is not considered the proposed development will endanger public safety by reason of traffic hazard.**
- (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft. **N/A**
- (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. **N/A**
- (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. **N/A**
- (vi) 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. **The proposed site of development along a scenic route. It is considered that the proposed development as described in the referral, will not interfere with the character of the receiving landscape given that is site is zoned for agriculture.**
- (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, **The proposed works will not result in the excavation, alteration or demolition of any of the recorded monuments or protected structures or place of ecological interest in the vicinity.**
- (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. The proposed works will not result in the excavation, alteration or demolition of any of the recorded monuments or protected structures.

(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,

Having regard to the nature of the works proposed, which are of a limited scale , the AA screening report on file, the proposed development is not considered to require an NIS / (stage two AA), as the proposed works either alone or in combination with other plans / or projects will not have significant effects on the integrity of any European site in light of their conservation objective. See screening report attached.

(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.

N/A.

(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,

It is noted that the proposed works will not enclose land habitually open to or used by the public during the 10 years.

(xi) obstruct any public right of way,

The applicant has not indicated that there are any rights of way at the subject site.

Having regard to the details received by the Planning Authority I consider that the proposed development complies with the provisions of Class 9 and Class 11(b) of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended) including conditions and limitations. However having regard to the provisions of Article 9(1)(a) (ii) of Planning and Development Regulations 2001 (as amended), whereby development consisting of or comprising 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, it is noted that the road fronting the site is greater than 4m in width and as such the development is not exempted development. Furthermore having regard to the provisions of Article 9(1)(a) (iii) of Planning and Development Regulations 2001 (as amended), whereby development which would endanger public safety by reason of traffic hazard or obstruction of road users is not

exempted development, it is noted that no sight distance drawings have been submitted to demonstrate that the proposed entrance will not give rise to a traffic hazard.

Environmental Impact Assessment

In assessing this application I have had regard to the provisions of EU Directive 2014/52/EU (which amends EU Directive 2011/92/EU), and which has been transposed into Irish legislation by the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (SI No. 296 of 2018). The subject development does not fall within the mandatory requirements for EIA as set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. I therefore consider that the proposal constitutes a sub-threshold development and note the requirements of Article 103 (1)(a) and (b) of the Planning and Development Regulations 2001, as amended. As such having regard to the nature and scale of the proposed development and the nature of the receiving environment I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Appropriate Assessment

Having regard to the nature and scale of the works as proposed under the details contained in this Section 5 referral, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on the adjoining European Site. The appropriate assessment screening report and determination is attached to this report.

Conclusion

Having regard to the foregoing assessment, it is concluded that the development as proposed comprising the construction of an agricultural entrance gate and the relocation of 1.2 boundary wall is development and is not exempted development, having regard to Article 6, Class 9 and Class 11 (b) of Part 2, Schedule 2 of the Planning and Development Regulations 2001 (as amended) and having regard to Article 9 (1) (a) (ii) and (iii) .

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of an agricultural entrance gate and the relocation of 1.2 boundary wall is considered to be development or is not development and is or is not exempted development:


The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 Class 9 and Class 11 (b) Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended
- (c) Article 9 (Restrictions on Article 6) of the Planning and Development Regulations 2001, as amended
- (d) The details of the proposed works as indicated in submitted documents from the referrer as received by the Planning Authority on the 22nd Nov 22.


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

- (a) the proposed 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 development comes within the scope of Article 6(1) of the Planning and Development Regulations 2001, as amended, and also Class 9 and Class 11 (b) of Part 1 of Schedule 2 to those Regulations,
- (d) However the works relative to the entrance and boundary setback come within the restrictions on exempted development contained in Article 9(1)(a)(ii) of the Planning & Development Regulations 2001, as amended, as the entrance comprises the formation of a means of access to a public road the surfaced carriageway of which exceeds four metres in width.

Now therefore Clare County Council (Planning Authority), hereby decides the development consisting of the construction of an agricultural entrance gate and the relocation of 1.2 boundary wall is development and is not exempted development.



Executive Planner
Date: 14/12/22



Senior Executive Planner
Date: 15/12/22

Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:

(a) File Reference No:	Section 5 R22/ 78
(b) Brief description of the project or plan:	Whether the construction of an agricultural entrance gate and the relocation of a 1.2m boundary wall development and if so is it exempted development .
(c) Brief description of site characteristics:	Agricultural field on the north site side of the R479
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Blackhead to Poulsallagh Complex SAC	Annex I habitats: <input type="checkbox"/> Reefs [1170] <input type="checkbox"/> Perennial vegetation of stony banks [1220] <input type="checkbox"/> Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche/Batrachium</i> vegetation [3260] <input type="checkbox"/> Alpine and boreal heaths [4060]	1.3km	None	No

☐ *Juniperus communis* formations on heaths or calcareous grasslands [5130]
☐ Semi-natural dry grasslands and scrubland facies on calcareous grasslands [6210]
☐ Lowland hay meadows (*Alopecurus pratensis*, *Sanguisorba officinalis*) [6510]
☐ Petrifying springs with tufa formation (Cratoneurion) [7220]
☐ *Limestone pavements [8240]
☐ Submerged or partially submerged sea caves [8330]
 Annex II Species
☒ Petalwort
Petaphyllum ralfsii

¹ Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

² If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:

Possible Significance of Impacts:
(duration/magnitude etc.)

Construction phase e.g.

- Vegetation clearance
- Demolition

- Surface water runoff from soil
- Demolition of existing boundary

<ul style="list-style-type: none"> • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	
Operational phase e.g. <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	None
In-combination/Other	

(b) Describe any likely changes to the European site:

Examples of the type of changes to give consideration to include: <ul style="list-style-type: none"> • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation status value (water or air quality etc.) • Changes to areas of sensitivity or threats to QI • Interference with the key relationships that define the structure or ecological function of the site 	None
--	------

(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

☐ Yes ☒ No

Step 4. Screening Determination Statement


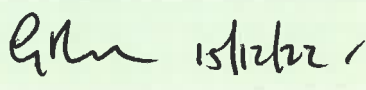
The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

The proposal comprise the construction of an agricultural entrance gate and the relocation of a 1.2m boundary wall (dry stone) within the village of Doolin.

Having regard to the separation distance to the European sites and the absence of direct hydrological assessment the proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives.

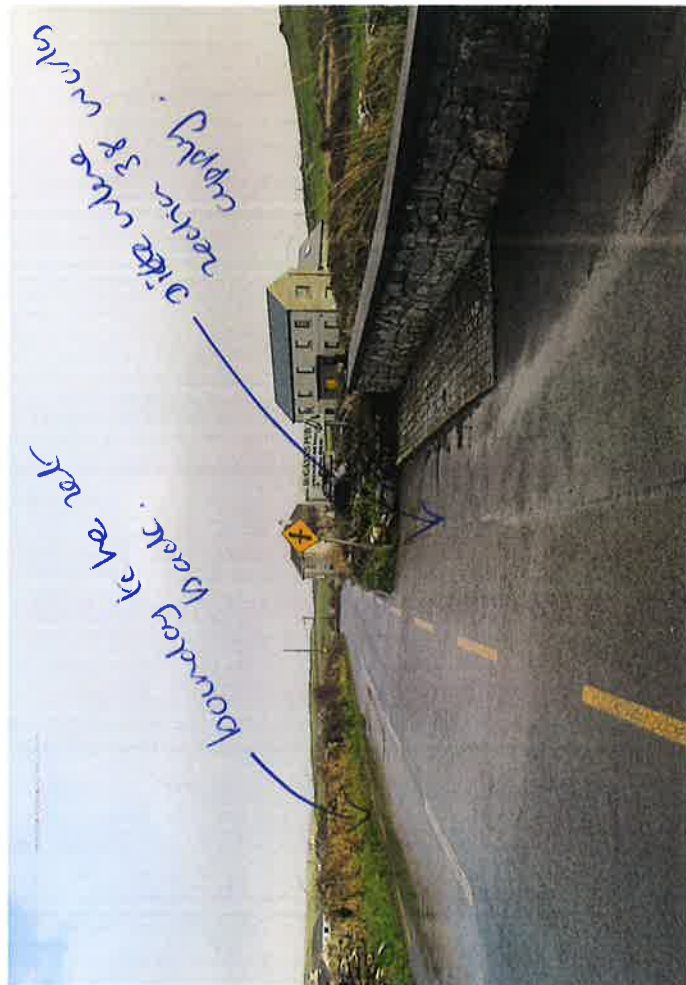
Conclusion: No significant effects are envisaged on European site(s) in view of its conservation objectives.

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	14/12/22	 Name: Ellen Carey E.P.
Signature and Date of the Decision Maker:		

stone wall/hedge like red, back on northern side of 1247a.



stone wall/hedge like red, back on northern side of 1247a.



boundary to be set
after where supply
reaches 3rd wall



stone wall/hedge like red, back on northern side of 1247a.

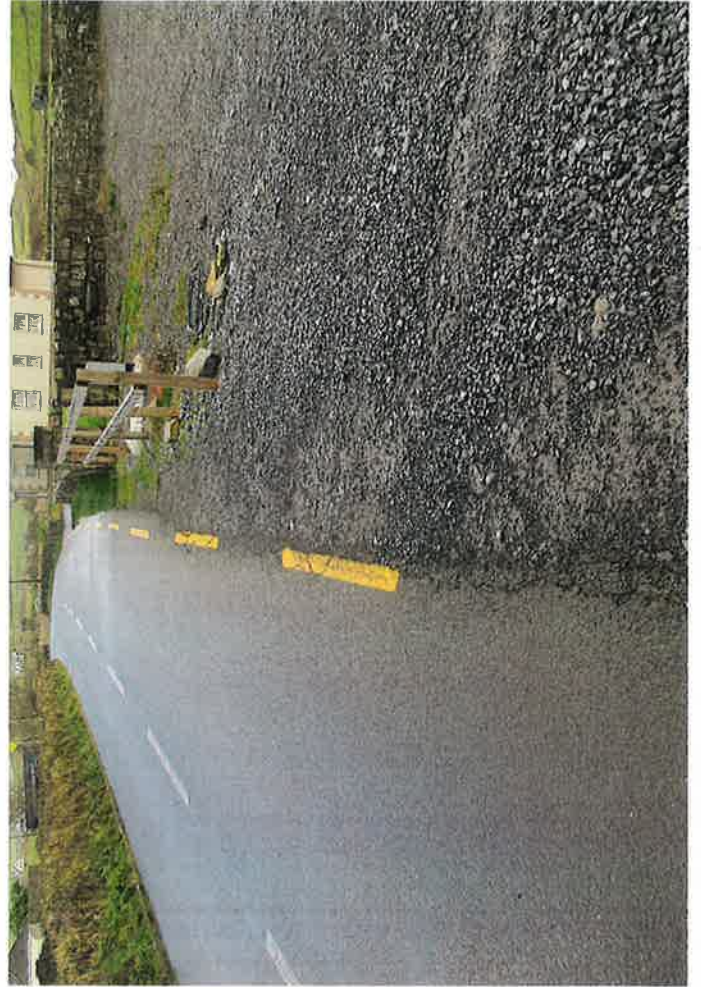
122/78

Extent of works completed on the eastern side of runway.



12/22/78.

12/22/78



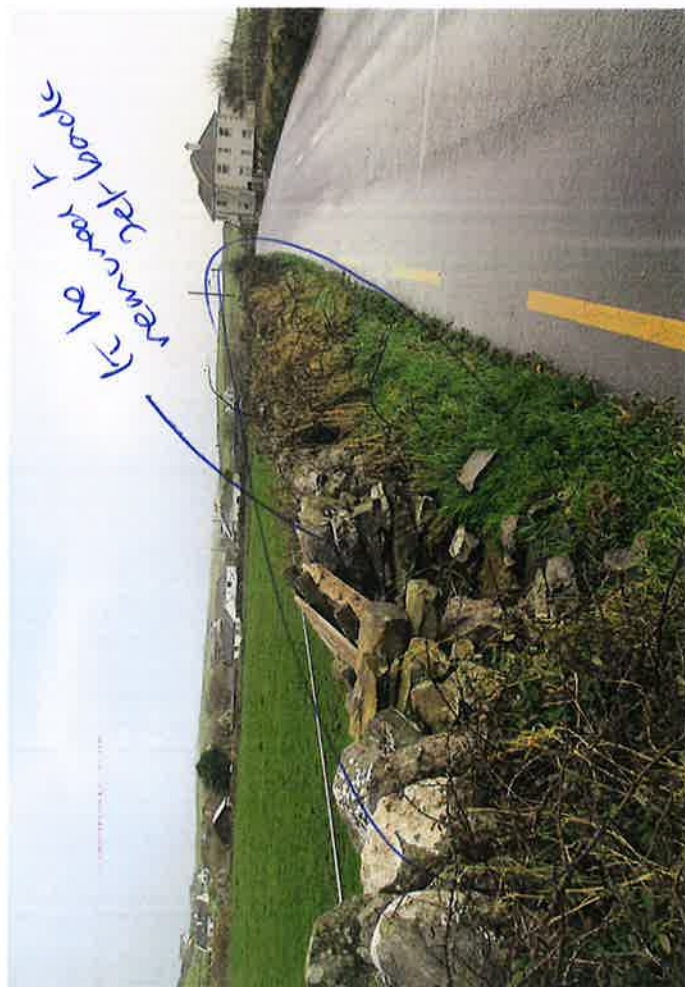
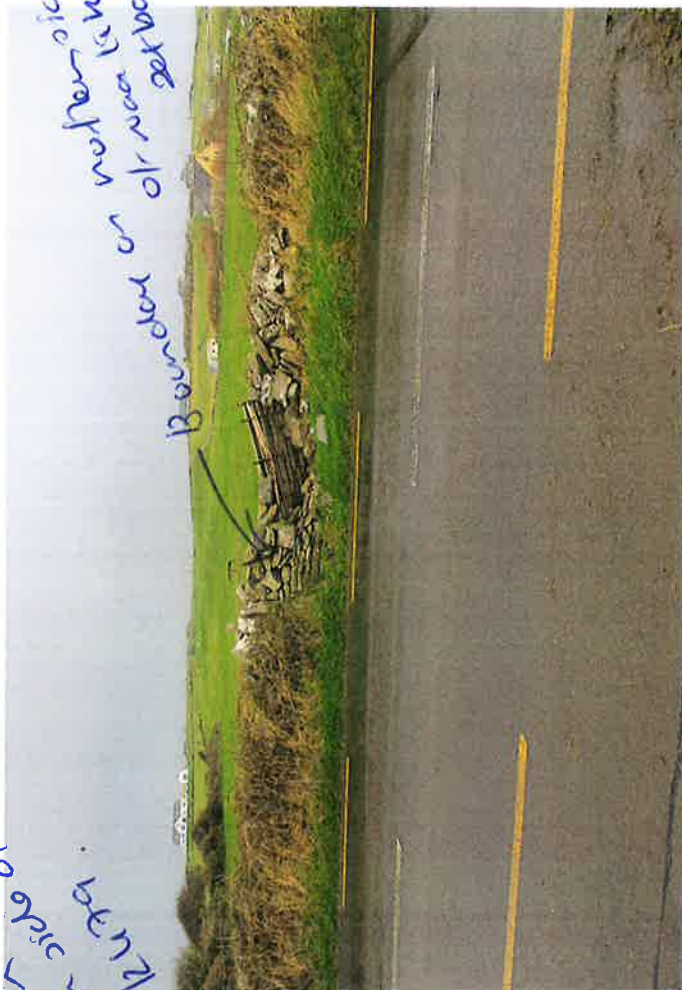
R22/78.



10/09/2017
Northern side of



Boundary on northern side
of road is being
put back.



to be removed &
put back



12/2/78.

222/78.



protection boundary tube set back



8/22/78

8/22/22



1222/78



side where
backpack is
cupboard and
teach 3p
120000 120000

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,
Economic Development Directorate,
Clare County Council,
New Road, Ennis,
Co. Clare.
V95DXP2

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



**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	<p>John & Ann Marie O'Driscoll</p> <p>Crimlin, Craggagh, Fanore, Co. Clare.</p> <p>_____</p> <p>_____</p> <p>_____</p>
(b) Telephone No.:	<p>086 2557258</p>
(c) Email Address:	<p>duffycivileng@gmail.com</p>
(d) Agent's Name and address:	<p>Michael Duffy</p> <p>1 Clós na hEaglaise, Kilfenora, Co. Clare. V95E659</p> <p>_____</p> <p>_____</p> <p>_____</p>

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 construction of an agricultural entrance gate and the relocation of a 1.2m boundary wall

development and if so is it exempt development?

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

The Roads Authority intend to construct a foot-path and a revised entrance to the applicant's land

directly across the road on the Southern side from this subject application location. It also wishes to

relocate the boundary wall of the subject site on the northern side to improve the road alignment.

The applicants wish, as part of this work, to have a gate included in the relocated wall on the

Northern side directly opposite the gate to their lands being relocated to facilitate the new footpath.

They require this gate for transferring cattle on their lands without the need to drive cattle down this

busy road.

8014
(8008)

- (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)

OSI Map included with site location marked

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Teergonean, Doolin, Co. Clare. _____ _____ _____ _____
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	No _____ _____ _____
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	Applicant landowners _____ _____
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	n/a _____ _____ _____
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	No
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	No
(h) Date on which 'works' in question were completed/are likely to take place:	Roads Authority actively seeking to carry out this work

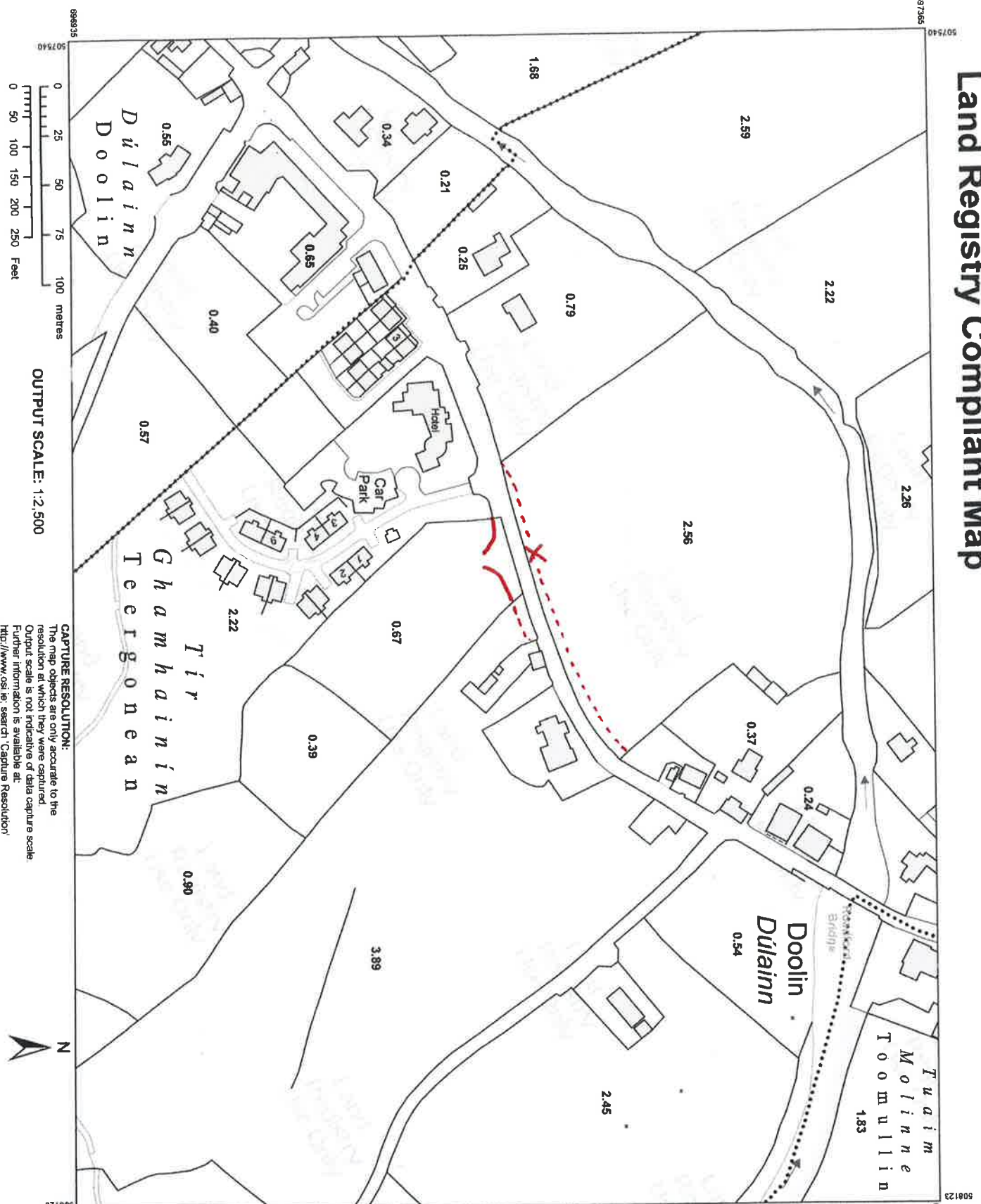
SIGNED: _____



Michael J. Duffy BE
Civil Engineer,
Co. Clare.
(086) 2557258

DATE: 22/11/2022

Land Registry Compliant Map



OUTPUT SCALE: 1:2,500

CAPTURE RESOLUTION:

The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: <http://www.osi.ie/search/CaptureResolution>



National Mapping Agency

CENTRE COORDINATES:

ITM 507832,697150

PUBLISHED: 22/1/2022 ORDER NO.: 50303883_1

MAP SERIES: 1:2,500 MAP SHEETS: 3907-D, 3908-C

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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.

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LEGEND:

<http://www.osi.ie/search/LargeScaleLegend>

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

22/11/2022 15:55:30

Receipt No. : L1CASH/0/341553
***** REPRINT *****

JOHN & ANN MARIE O'DRISCOLL
C/O MICHAEL DUFFY
1 CLOS NA HEAGLAISE
KILFENORA
CO. CLARE
R22-78

COMHAIRLE
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 - Patricia Quinlivan
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No.0033043E

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

22/11/2022 15:55:30

Receipt No. : L1CASH/0/341553

***** REPRINT *****

JOHN & ANN-MARIE O'DRISCOLL
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1 CLOS NA HEAGLAISE
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R22-78

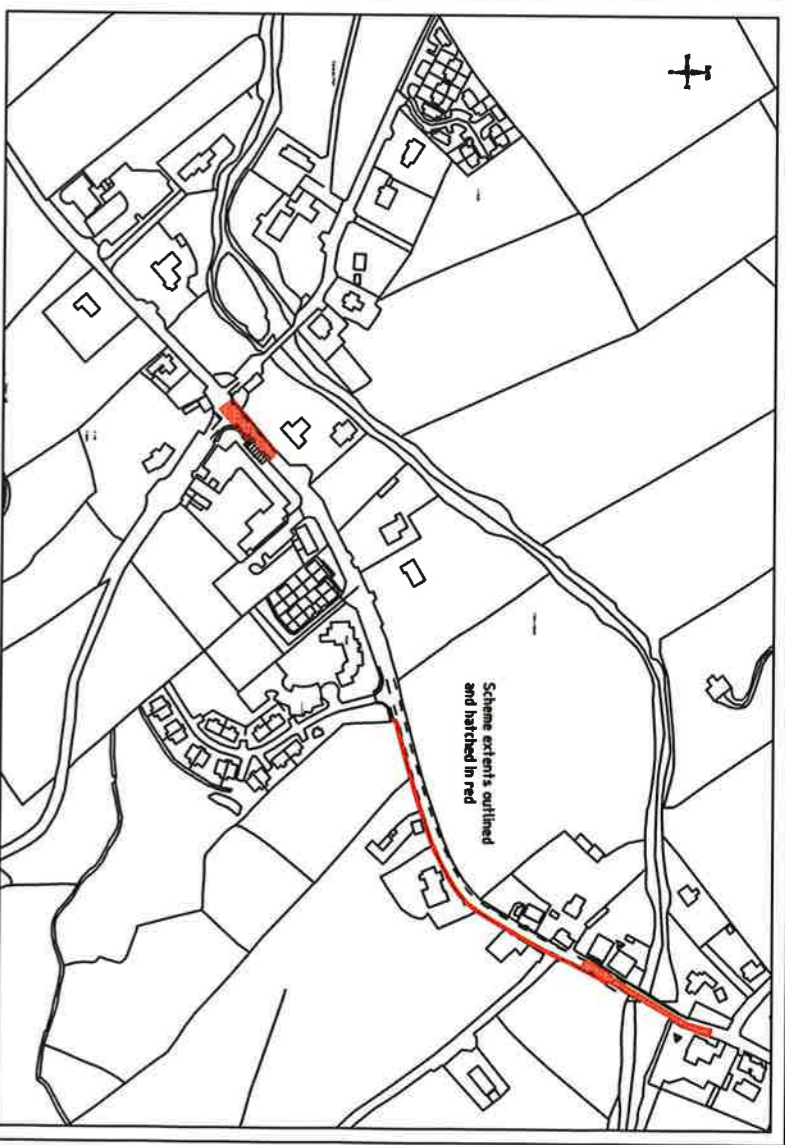
COMHAIRLE
SECTION 5 REFERENCES 80.00
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Total : 80.00 EUR

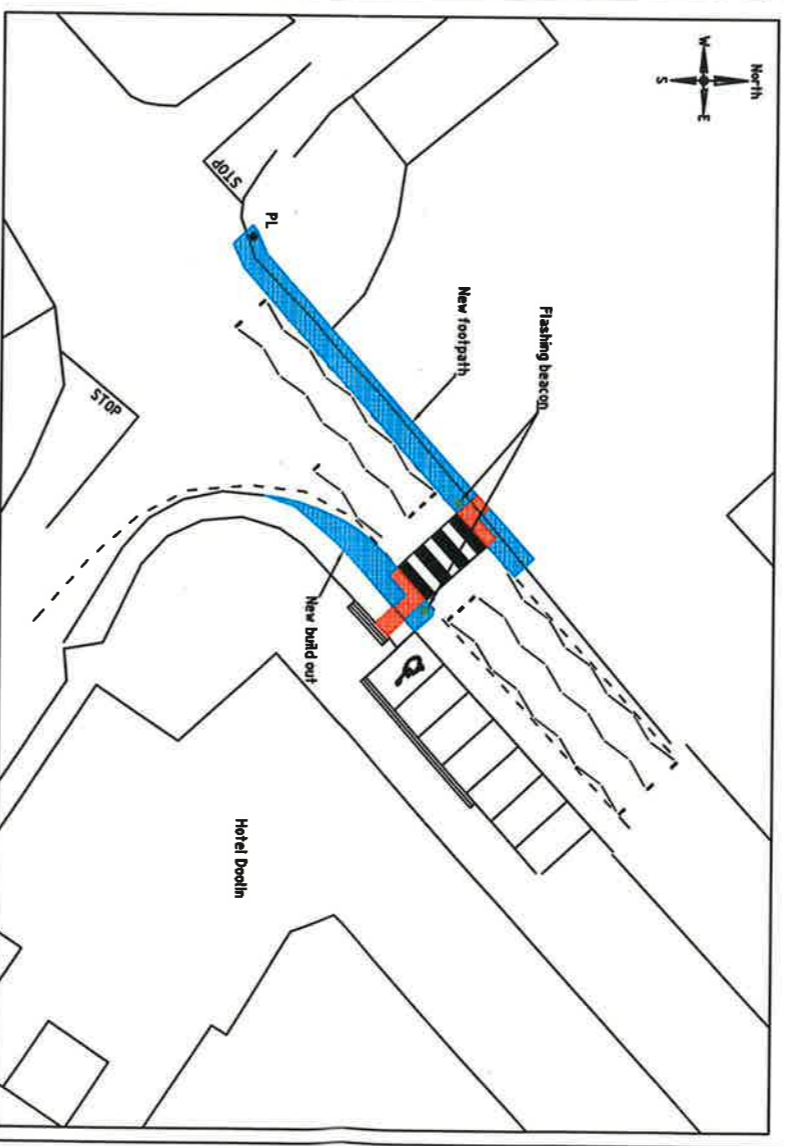
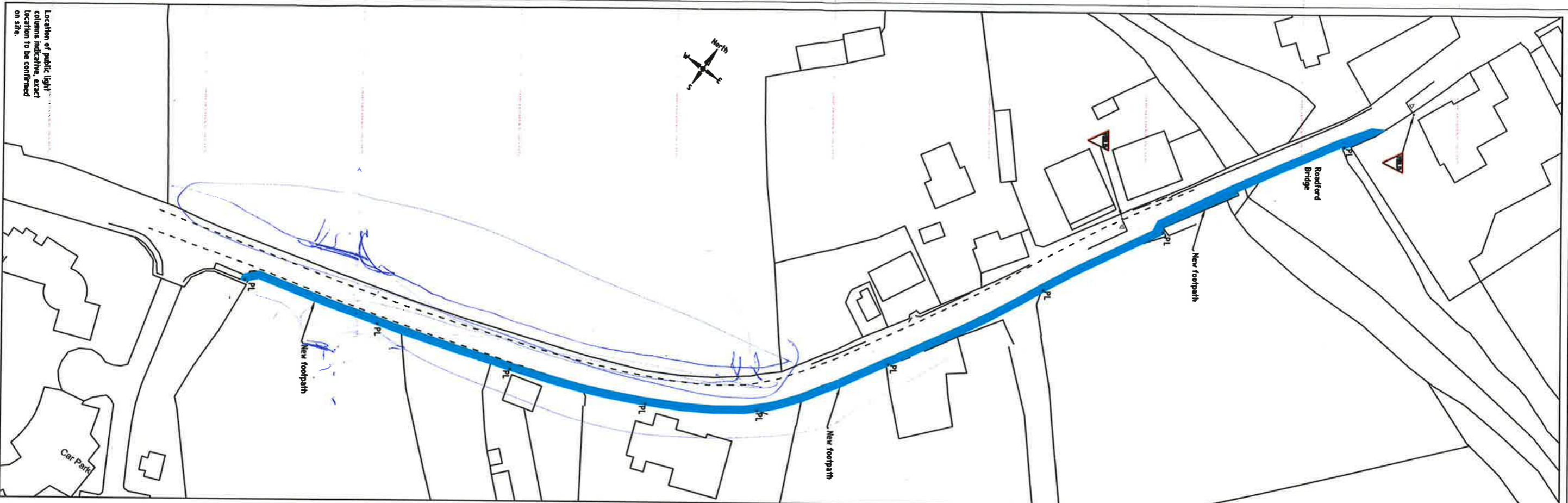
Tendered :
CREDIT CARDS 80.00

Change : 0.00

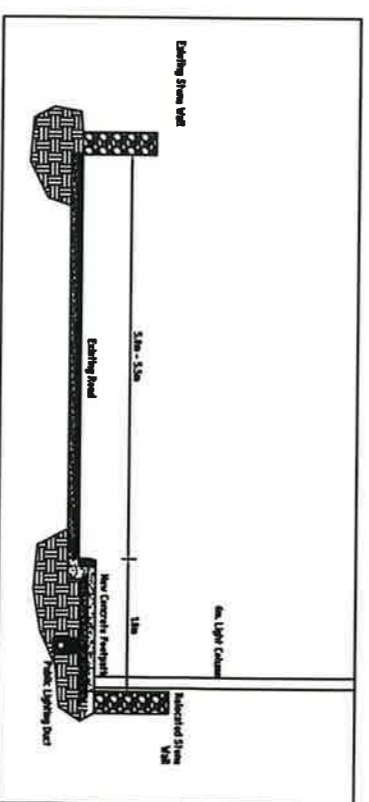
Issued By : L1CASH - Patricia Quinlivan
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No.0033043E



SITE LOCATION MAP
SCALE 1/5000



SITE LAYOUT FITZ'S CROSS
SCALE 1/500



TYPICAL SECTION
SCALE 1/100

Revision	Description of Changes Made	By	Date
-	-	-	-



CLARE COUNTY COUNCIL

Design Office, Aras Contae an Chláir, New Road, Ennis, Co. Clare
T: 065 6821616 F: 065 68 21915 E: design@clarecoco.ie W: www.clarecoco.ie

Project Title: FOOTPATH, FISHERSTREET - ROADFORD, DOOLIN

Drawing Title: SITE LOCATION, LAYOUT AND SECTION
FITZ'S CROSS - ROADFORD

Drawing No.: WCMD-0024-11 Rev.: - Status: SECTION 38 Scale: As shown @A3

Design By: PJC Drawn By: PJC Checked By: Date: 04/08/2021

Project Ref.: WCMD-0024

Location of public light columns indicative, exact location to be confirmed on site.

SITE LAYOUT ROADFORD
SCALE 1/1000

**Report on Section 38 procedure for
Proposed controlled pedestrian crossing, concrete footpath and public
lighting on the R-479 in the Townlands of Doolin and Teergonean, Doolin,
Co. Clare**

1.0 Introduction

A Newspaper advert was published on 6th August 2021 giving a description of a proposed controlled pedestrian crossing on the R-479 along with concrete footpaths and public lighting in Doolin, Co. Clare.

Proposed works are as follows:

- Installation of new controlled pedestrian crossing with belisha beacons.
- Construction of new concrete footpath, kerbs and natural stone walls.
- Installation of new public lighting columns
- Provision of all associated signage and road markings.

Plans and Particulars of the above development were made available for inspection on Clare County Councils website www.clarecoco.ie. Last date for viewing and submission of comments was 4pm, Monday 6th September 2021.

2.0 Submissions received

Four submissions were received during the four week period.

One submission was received from An Garda Síochana (Inspector) and read as follows:

‘An Garda Síochana has no objections to the proposals outlined in your correspondence.’

Two local residents also submitted submissions. One was primarily related to the Roadford area and the second was in relation to both Fitz’s Cross and Roadford. These submissions are attached for your information.

3.0 Summary

The proposed works at Fitz’s Cross will provide a safe pedestrian crossing for the large number of pedestrians crossing the R-479 on a daily basis and particularly during the busy summer months. This will also link up sections of footpath previously completed by Clare County Council from Fisher Street.

The footpath works proposed for Roadford still require landowner approval and will not proceed until this is in place. A footpath in Roadford would provide a safe means for

pedestrians from Fisher Street to Roadford which is required to cater for the large number of visitors to the area each year.

I recommend approval of this scheme.

Report Prepared By:

Enda Mac Namara,
Senior Executive Engineer,
West Clare MD

Date: 1st November 2021