



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Pat O'Donohue
Ballyconnoe
Lisdoonvarna
Co. Clare

RL 4096 6276 71E

24th February, 2022

Section 5 referral Reference R22-8 – Pat O'Donohue

Is the removal of broadleaf species trees at Ballyconnoe, Lisdoonvarna, County Clare and the replacement of same with conifer species trees, also at Ballyconnoe, Lisdoonvarna, County Clare, considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 1st February 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.: R22-8



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R22-8

Is the removal of broadleaf species trees at Ballyconroe, Lisdoonvarna, County Clare and the replacement of same with conifer species trees, also at Ballyconroe, Lisdoonvarna, County Clare, considered to be development and if so, is it exempted development?

AND WHEREAS, Pat O'Donohue 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 (1) (i) and (4A) of the Planning and Development Act, 2000, as amended,
- b) The provisions of Part 3 Exempted Development – Rural - Article 6. Class 16 and associated limitations and conditions,
- c) The extent of the plantation being 4.15ha as indicated in submitted documents from the referrer,

And whereas Clare County Council has concluded:

- a) Clearing the present area of failed ash trees at Ballyconroe, Lisdoonvarna Co. Clare and the replacement of same with conifer species, also at Ballyconroe, Lisdoonvarna Co. Clare, 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 of clearing the present area of failed ash trees at Ballyconroe, Lisdoonvarna Co. Clare and the replacement of same with conifer species, also at Ballyconroe, Lisdoonvarna Co. Clare, complies with the provisions of Part 3 Exempted Development – Rural - Article 6 Class 16 and conditions and limitations there under of the Planning and Development Regulations 2001 as amended.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby declares that the removal of broadleaf species trees at Ballyconroe, Lisdoonvarna, Co. Clare, and the replacement of same with conifer species, also at Ballyconroe, Lisdoonvarna, Co. Clare, is development and is exempted development, as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

24th February, 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:

79348

Reference Number:

R22-8

Date Referral Received:

1st February 2022

Name of Applicant:

Pat O'Donohue

Location of works in question:

Ballyconnoe, Lisdoonvarna, Co. Clare

Section 5 referral Reference R22-8 – Pat O'Donohue

Is the removal of broadleaf species trees at Ballyconnoe, Lisdoonvarna, County Clare and the replacement of same with conifer species trees, also at Ballyconnoe, Lisdoonvarna, County Clare, considered to be development and if so, is it exempted development?

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

- (a) Sections 2, 3 and 4 (1) (i) and (4A) of the Planning and Development Act, 2000, as amended,
- (b) The provisions of Part 3 Exempted Development – Rural - Article 6. Class 16 and associated limitations and conditions,
- (c) The extent of the plantation being 4.15ha as indicated in submitted documents from the referrer,

AND WHEREAS Clare County Council has concluded:

- (a) Clearing the present area of failed ash trees at Ballyconnoe, Lisdoonvarna Co. Clare and the replacement of same with conifer species, also at Ballyconnoe, Lisdoonvarna Co. Clare, 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 of clearing the present area of failed ash trees at Ballyconnoe, Lisdoonvarna Co. Clare and the replacement of same with conifer species, also at Ballyconnoe, Lisdoonvarna Co. Clare, complies with the provisions of Part 3 Exempted

Development – Rural - Article 6 Class 16 and conditions and limitations there under of the Planning and Development Regulations 2001 as amended.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the removal of broadleaf species trees at Ballyconnoe, Lisdoonvarna, Co. Clare, and the replacement of same with conifer species, also at Ballyconnoe, Lisdoonvarna, Co. Clare, is development and is exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

24th February, 2022

A-6

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: R22-8

APPLICANT(S): Pat O Donoghue

REFERENCE: Whether the removal of broadleaf species trees at Ballyconnoe and the replacement of same with conifer species also at Ballyconnoe is considered to be development and if so is it exempted development

LOCATION: Ballyconnoe Lisdoonvarna , Co. Clare

DUE DATE: 28th Feb 2022

Site Location

This proposal relates to two different parcels of land. The plantation where ash die back is occurring is located at Ballyconoe, set back 450m distance from the public road to the north.

The field in which it is proposed to locate the replacement conifer plantation of same size (4.15ha) is located to the southeast of the first field.

Recent Planning Application History

None

Enforcement History

None

Background to Referral

The applicant is seeking a Section 5 Declaration as to whether the removal of broadleaf species trees at Ballyconnoe and the replacement of same with conifer species also at Ballyconnoe is considered development and if so, is it exempted development. The replanting is to be carried out in order to fulfill the necessary re planting obligations.

Development details and specification

The following has been submitted:

- Aerial photograph showing the location of the ash plantation and the proposed location for replacement planting of conifers;
- Declaration request form fully completed, with written description of the proposal.
- Land folio map

Flood Risk

Following examination of the relevant GIS information in relation to flood risk assessment, it is noted that the proposed development is located outside Flood Zones A and B.

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* states 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;

Environmental Impact Assessment & Appropriate Assessment

Section 4 (4) states

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 (4 A) states

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.

Part 3 Exempted Development- Rural- Article 6

Class 16

The replacement of broadleaf high forest by conifer species.

Conditions and limitations

The area involved shall be less than 10 ha.

Planning and Development Regulations 2001-2021 – Article 8F:

8F. 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.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the removal of broadleaf species trees at Ballyconnoe and the replacement of same with conifer species also at Ballyconnoe is considered development and if so, is it exempted development .

Notwithstanding the provisions of Section 4 (4) of the Act and Article 8 F 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 is 4.15ha .

In this regard 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 dealt with through the Forestry Licence process.

Conclusion

Having regard to the information provided, it is considered that clearing the present area of failed ash trees the replacement of same with conifer species also at Ballyconnoe 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, the replacement of broadleaf high forest by conifer species is exempted development when the area is less than 10 ha.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the removal of broadleaf species trees at Ballyconnoe and the replacement of same with conifer species also at Ballyconnoe is 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 (1) (i) and (4A) of the Planning and Development Act, 2000, as amended,
- (b) The provisions of part 3 Exempted Development –Rural- Article 6. Class 16 and associated limitations and conditions,
- (c) The extent of the plantation being 4.15ha as indicated in submitted documents from the referrer.

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

- (a) Clearing the present area of failed ash trees and the replacement of same with conifer species also at Ballyconnoe at Ballyconnoe Lisdoonvarna Co. Clare, 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,
- (d) the said development of clearing the present area of failed ash trees the replacement of same with conifer species also Ballyconnoe Lisdoonvarna Co. Clare, complies with the provisions of Part 3 Exempted Development- Rural- Article 6 Class 16 and conditions and limitations there under of the Planning and Development Regulations 2001 a amended,

Now therefore Clare County Council (Planning Authority), hereby decides that removal of broadleaf species trees at Ballyconnoe and the replacement of same with conifer species also at Ballyconnoe is development and is exempted development.

Ellen Coag.

Executive Planner

Date: 23/2/22

John

A/ Senior Planner

Date: 24/2/22

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 22/8
Applicant Name	Pat O Donoghue
Development Location	Ballyconnoe, Lisdoonvarna
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 removal of broadleaf species trees at Ballyconnoe Lisdoonvarna and the replacement of same with conifer species trees , also at Ballkyconnoe 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)
Moneen Mountain SAC	<p>Annex I habitats:</p> <ul style="list-style-type: none"> ☐ *Turloughs [3180] ☐ Alpine and boreal heaths [4060] ☐ <i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130] ☐ Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130] ☐ Semi-natural dry grasslands and scrubland facies on calcareous grasslands [6210] ☐ Petrifying springs with tufa formation (Cratoneurion) [7220] ☐ *Limestone pavements [8240] <p>Annex II Species</p> <ul style="list-style-type: none"> ☐ Marsh fritillary <i>Euphydryas aurinia</i> [1065] ☐ Lesser horseshoe bat <i>Rhinolophus hipposideros</i> [1303] 	4km to the east.

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
2	Impacts on terrestrial	Is the development within 1km of a	

¹ European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

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

	habitats & species.	<i>European site with terrestrial based habitats or species?</i>	yes
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>	yes
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.cframes.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	NA

	fuels) within 500m of a watercourse	
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	NA

	because it supports marine habitats and/or species.	
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	R22/8
Proposed Development	Section 5 referral the removal of broadleaf species trees at Ballyconnoe and the replacement of same with conifer species
Development Location	Ballyconnoe , Lisdonnvarna
European sites within impact zone	Moneen Mountain SAC
Description of the project:	
As above	
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-	
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
	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.

Completed By	
Date	23 rd Feb 22



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Pat O'Donohue
Ballyconnoe
Lisdoonvarna
Co. Clare

01/02/2022

Section 5 referral Reference R22-8 – Pat O'Donohue

Is the removal of broadleaf species trees at Ballyconnoe, Lisdoonvarna, County Clare and the replacement of same with conifer species trees, also at Ballyconnoe, Lisdoonvarna, County Clare, considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 1st February 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Tadhg Holmes

Tadhg Holmes
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúarthóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
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Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



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
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 Email: planoff@clarecoco.ie
 Website: www.clarecoco.ie

CLARE
COUNTY COUNCIL

01 FEB 2022

Received
 Planning Section



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	Pat O' Donohue Ballyconnoe Lisdoonvarna Co Clare
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	N/A

2. DETAILS REGARDING DECLARATION BEING SOUGHT**(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT***Note: only works listed and described under this section will be assessed.*Sample Question: *Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?*

Is the removal of broadleaf species trees at Ballyconnoe Lisdoonvara and replacement of same with conifer species trees, also at Ballyconnoe Lisdoonvara, considered development and if so is it exempted development.

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

Pat O'Donohue is the owner of a mixed forest plantation at Ballyconnoe, Lisdoonvara. The Ash component of the forest plantation has been badly affected by Ash Die Back disease (Chalara) and as such needs to be removed on the advise / instructions of the DAFM Forest Service. The land upon which the Ash Trees were originally planted is not deemed conducive to the planting of broadleaf species trees due principally to soil type / exposure, therefore it is considered more appropriate to plant conifer species trees in order to fulfill the necessary re-planting obligation. Refer attached map which delienates the area's proposed to be cleared / planted.

(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 Location Map

2 - Site 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:	Ballyconroe, Lisdoonvarna, 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):	Pat O'Donohue is legal owner - see attached copy deed of transfer for Folio No CE12609 / relevant stamp duty receipt.
(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? If so please supply details:	No
(g) Were there previous planning application/s on this site? If so please supply details:	Not Aware
(h) Date on which 'works' in question were completed/are likely to take place:	Subject to Forest Service Approval, works likely to commence in April 2022

SIGNED:



DATE:

26.01.22

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:	

10:22

   69%

From: **Barry Lenihan**

<Barry.Lenihan@swsforestry.ie>

Date: Fri, Jan 14, 2022 at 2:37 PM

Subject: FW: FW: CN32634 Ballyconnue
Lisdoonvarna Co Clare Pat O Donohue

To:

Hi Pat

As you said, I don't know what happened there.

This is the email that I sent you last August, that Form P07 application needs to go into Clare County Council in order to get the exemption not to plant broadleaves in replacement for the Ash to be taken out.

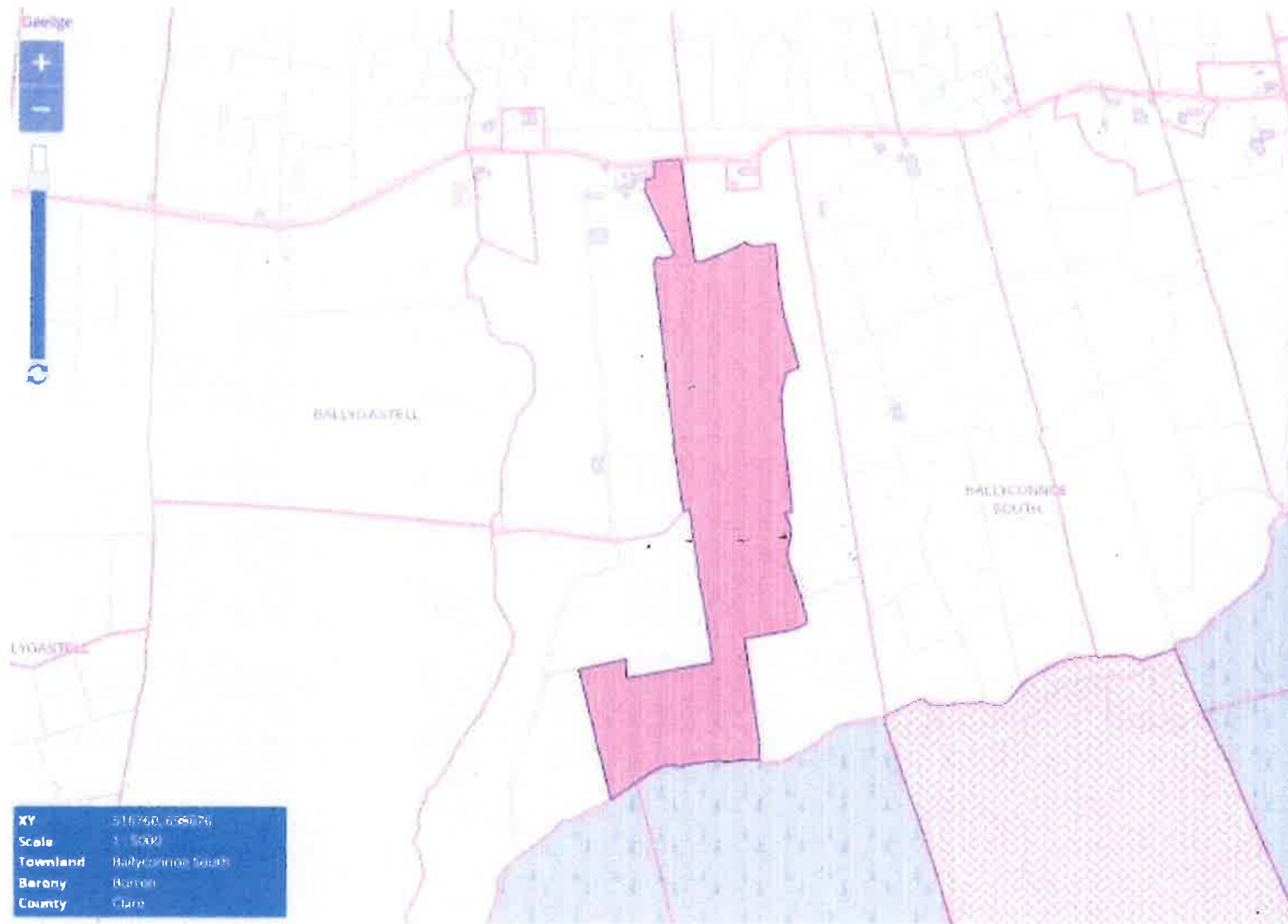
Rgds

Barry

Barry Lenihan | SWS FORESTRY

← ∨ Reply





Property Details

Back

Folio Number	CD12603
Title Level	Freehold
Plan Number	104
Property Number	1
Area of selected plans	0.85 hectares
Number of Plans on this folio	3
Address	N/A Available

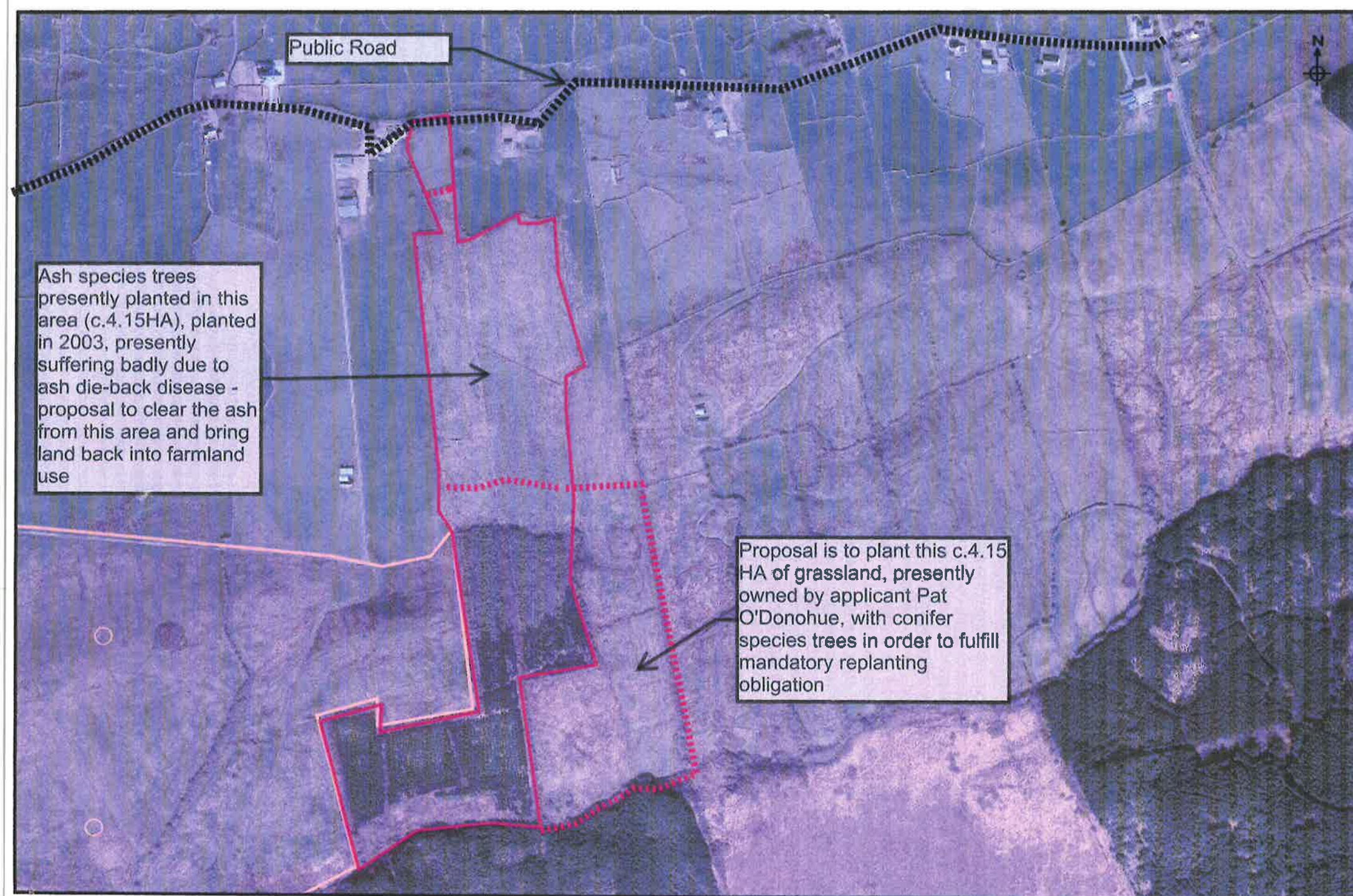
[Highlight All Plans](#)

[View Folio PDF](#) [Request Certified Copy](#)

***FRA Boundaries and Plan Area are not conclusive. See Section 6(2)(1) of Registration of Title Act 2006 and Rule 8(3) of the Land Registration Rules 2012.**

[Print Current View](#)

[Help](#)



COMHAIRLE
CONTAE
AN CHLÁIR

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

01/02/2022 13:40:40

Receipt No. : L1CASH/0/327877

REPRINT

PAT O'DONOHUE
BALLYCONNOE
LISDOONVARNA
CO. CLARE

SECTION 5 REFERENCES
GOODS 80.00
VAT Exempt Non-vatable

80.00

Total : 80.00 EUR

Tendered :
CHEQUES

80.00

Change :

0.00

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