

COMHAIRLE CLARE CONTAE AN CHLÁIR COUNTY COUNCIL

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Thomas Holland Williamstown Whitegate Co. Clare V94 128D

22nd December 2022

Section 5 referral Reference R22-82 - Thomas Holland

Is the provision of two houseboats located in an existing commercial marina for short-term letting considered development and if so, is it exempted development?

A Chara,

I refer to your application received on 6th December 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







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:

81042

Reference Number:

R22-82

Date Referral Received:

6th December 2022

Name of Applicant:

Thomas Holland

Location of works in question:

Williamstown, Whitegate, Co. Clare

Section 5 referral Reference R22-82 - Thomas Holland

Is the provision of two houseboats located in an existing commercial marina for short-term letting considered 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 works as indicated in submitted documents and additional supporting information received from the referrer.
- (d)The planning history of the site
- (e)An Bord Pleanála case RL61.RL3488

AND WHEREAS Clare County Council has concluded:

- (a)The provision of two houseboats located in an existing commercial marina for short-term letting 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 provision of two houseboats located in an existing commercial marina for short-term letting is not exempted development having regard to:
 - a. Section 3(3) of the Planning and Development Act, 2000 (as amended) whereby the use of land will be taken to have materially changed if it is used for the keeping of tents, vans or other objects for camping, habitation or the sale of goods.
 - b. Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended) whereby the works would consist of the extension / alteration of an unauthorised structure or a structure the use of which is an unauthorised use.
 - c. Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001 (as amended), whereby the works 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, and

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 provision of two houseboats located in an existing commercial marina for short-term letting at Williamstown, Whitegate, Co. Clare is considered development which is not exempted development.

Signed:

GARETH RUANE

SENIOR EXECUTIVE PLANNER

Date:

22nd December 2022

DECLARATION ISSUED UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)

Reference No.: R22-82



Section 5 referral Reference R22-82

Is the provision of two houseboats located in an existing commercial marina for short-term letting considered development and if so, is it exempted development?

AND WHEREAS, Thomas Holland 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 works as indicated in submitted documents and additional supporting information received from the referrer.
- (d)The planning history of the site
- (e)An Bord Pleanála case RL61.RL3488

And whereas Clare County Council has concluded:

- (a)The provision of two houseboats located in an existing commercial marina for short-term letting 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 provision of two houseboats located in an existing commercial marina for short-term letting is not exempted development having regard to:
 - a. Section 3(3) of the Planning and Development Act, 2000 (as amended) whereby the use of land will be taken to have materially changed if it is used for the keeping of tents, vans or other objects for camping, habitation or the sale of goods.
 - b. Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended) whereby the works would consist of the extension / alteration of an unauthorised structure or a structure the use of which is an unauthorised use.
 - c. Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001 (as amended), whereby the works 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, and

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 provision of two houseboats located in an existing commercial marina for short-term letting at Williamstown, Whitegate, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

Anne O'Gorman Staff Officer

Planning Department

Economic Development Directorate

22nd December 2022

CLARE COUNTY COUNCIL SECTION 5 DECLARATION OF EXEMPTION APPLICATION

FILE REF:

R22-82

APPLICANT(S):

Thomas Holland

REFERENCE:

Whether the provision of two houseboats located in an existing

commercial marina for short-term letting is or is not development and is

or is not exempted development.

LOCATION:

Williamstown, Whitegate, Co. Clare

DUE DATE:

11th January 2023

Site Location

The site is located approximately 3km east of Whitegate on the shores of Lough Derg. The site comprises an existing commercial marina located downslope of the public road. The roadside boundary is delineated by native hedgerow. The entrance is marked by large cut-stone pillars with name plaque. Internal roads lead downslope to the marina.

Planning History

No recent planning applications on the proposal site.

To the North

P13/373 Thomas Holland GRANTED permission to demolish existing dwelling house and to construct a single storey dwelling with upgraded wastewater treatment system, the relocation of existing entrance and all associated site works. The application will be accompanied with a Natura Impact Statement

P15/768 Thomas Holland GRANTED permission for alterations to previously granted planning application P13-373, which was to demolish existing dwelling house and to construct a single storey dwelling with upgraded wastewater treatment system, along with all associated site works

To the West

P20/701 – Thomas and Kathleen Holland GRANTED permission to construct a single storey extension to existing dwelling and all associated site works

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Thomas Holland. He states that he is the owner of the property.

The applicant is seeking a Section 5 Declaration as to whether the provision of two houseboats located in an existing commercial marina for short-term letting is or is not development and is or is not exempted development

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 2(1) of the Planning and Development Act 2000, as amended also states:

"land" includes any structure and any land covered with water (whether inland or coastal)

Section 3(2)(b)(i) of the Planning and Development Acts indicates that the use of land will be taken to have materially changed if is it is used for the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods. It therefore constitutes 'development' within the meaning of the Acts.

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 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 Schedule 2 opposite the mention of the relevant class in the said column 1.

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

(a) if the carrying out of such development would –

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act
- (ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,
- (vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development

would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the provision of two houseboats located in an existing commercial marina for short-term letting at Williamstown, Whitegate, Co. Clare is or is not development and is or is not exempted development

Particulars of the Development

The applicant is seeking to moor two houseboats at an existing marina for the provision of tourist accommodation / short-term letting. It is stated that no infrastructure upgrades are proposed / required. The existing entrance, hard surfaces for parking, jetties that currently service the marina, will remain unchanged.

Assessment of the Proposal

The applicant has submitted numerous documents with the proposal setting out the history of the site which aim to demonstrate an established commercial and accommodation use of the site. It is stated that a quay was first developed on the site by the Irish Steamboat Company. The quay has been in continuous use since it was first established in 1826 and is currently used mainly as a private marina.

The applicant indicates that the quay was used as good depot and overnight stopover for steamboats and provided sheltered accommodation for its crews. Receipts from the Grand Canal Company referring to the use of the pier for *shelter* have been provided. While acknowledging the submitted information, I note that The Grand Canal Company was taken over by CIE under the 1950 Transport Act and commercial barge traffic ceased c.1959. While the submitted documentation demonstrates the lengthy history of the proposed development site, it does not demonstrate an established and on-going use of the site for accommodation purposes.

The applicant also states that there was a fishing lodge on the property, let commercially to fishermen and holidaymakers up until 2010. In the first instance, the 'lodge' referred to was in a derelict condition at the time of street level imagery in 2009 and was also described as derelict in the Planner's Reports associated with applications P13/373 and P15/768. I do not consider the assertion that it was actively used by holidaymakers until 2010 to be accurate. In any event, the building was demolished and a replacement dwelling (for permanent occupancy) was permitted on the site under application P13/373 and said demolition brought about the wilful cessation of any tourist accommodation use of the structure.

The applicant has indicated that the mooring hire and boat rental have historically been associated with the marina. Some vessels are long stay and they also accommodate short term stays for those cruising on the Shannon. Owners use their boats for overnight accommodation. While noting the established use of the site for mooring hire, I consider the use of specially

constructed houseboats as tourist accommodation to be a hospitality use of a commercial nature. This differs substantially from the lease of moorings (either short or medium terms lets) by private boat owners. In this regard, I refer to An Bord Pleanala case RL61.RL3488 where a development of a similar nature was considered.

The provision of two boats (houseboats) for short term letting does not come within the meaning of descriptions for any of the Classes of Development provided for in Schedule 2, Part 1 of the Planning and Development Regulations

It has been concluded that use of the houseboats for the provision of short term tourism accommodation constitutes a material change of use within the meaning of "development" within the Act. According to section 3 (3) of the Act use land will be taken to have materially changed if it "is used for the keeping of tents, vans or other objects for camping, habitation or the sale of goods". It therefore constitutes "development" within the meaning of the Acts. I note that the applicant has submitted a number of images and letters from former visitors indicating that camping activity has taken place on the shore at this location in the past. However, the documents /images do not appear to be recent and the activity was informal and sporadic in nature. The subject information does not provide evidence of an establishing and on-going history of camping at this location.

Under Article 9 of the Planning and Development Regulations 2001, (as amended) development to which Article 6 relates shall not be exempted development for the purposes of the Act if carrying out the development would result in certain states impacts / effect. In the assessment of this Section 5 referral, particular concern is expressed in relation to Articles 9(1)(a)(viii) and 9(1)(a)(viiB).

Under the provisions of Article 9(1)(a)(viii) a development shall not be exempted development if it will 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.

The applicant has submitted documents to demonstrate the lengthy history of the site as a quay, mooring and shelter area. However, imagery of the site dating from 1995 onward (including Streetview images dating from 2009) show only a small pier on the shoreline and a grassed / wetland area between the shore and the public road. At some point c. 2010 to 2012, works were undertaken on the site and the current marina along with associated internal roadways was developed. The works undertaken were substantial and constitute a significant modification, expansion and intensification of the use on the site. There is no record of planning permission being sought for this development. The applicant has indicated that the proposed houseboats will utilise the existing hard surfaces and jetties. However, based on the available information, I consider these structures to be unauthorized.



Figure 1: 2004 to 2006 aerial photo with existing pier indicated (source: Geohive)



Figure 2: 2005 to 2012 aerial photos showing some additional development (source: Geohive)



Figure 3: 2011 to 2013 aerial photo showing current marina nearing completion (source: Geohive)

Under the provisions of Article 9(1)(a)(viiB) a development shall not be exempted development if it will 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,

The Planning Authority, as the competent authority in the appropriate assessment process, has been unable to reach a determination that the proposed development, alone and in-combination with other plans and projects, will not have a significant effect on European sites.

An appropriate assessment screening report and determination is attached to this report.

Conclusions

It has been concluded that the provision of boathouses for short-term letting / tourism accommodation constitutes a material change of use of the existing marina within the meaning of "development" within the Act. According to Section 3(3) of the Act, use land will be taken to have materially changed if it "is used for the keeping of tents, vans or other objects for camping, habitation or the sale of goods". It therefore constitutes "development within the meaning of the Acts.

Article 6 (1) the Planning and Development Regulations, as amended, (The Regulations), subject to exclusions specified in Article 9 of the Regulations provides for certain classes of exempt

development subject to stated conditions and limitations. The provision of two boathouses for short-term letting does not come within the descriptions for any of the Classes of Development provided for in Schedule 2, Part 1 of the Regulations. The provision of two boathouses located in an existing commercial marina for short term letting would therefore not be exempted development.

The commercial marina in which the development would be located does not appear to have the benefit of planning consent. The provision of two houseboats for short-term letting within said marina would therefore not be exempted development having regard to Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended).

The proposal was assessed both alone and in-combination with other plans and projects. On the basis of the information presently available, the Planning Authority was unable to reach a determination that the development would not have a significant effect on European sites. The provision of two houseboats for short-term letting would therefore not be exempted development having regard to Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001 (as amended)

Recommendation

The following questions have been referred to the Planning Authority:

Whether the provision of two houseboats located in an existing commercial marina for short-term letting at Williamstown, Whitegate, Co. Clare is considered development and if so, is it exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) The works as indicated in submitted documents and additional supporting information received from the referrer.
- (d) The planning history of the site
- (e) An Bord Pleanala case RL61.RL3488

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

- (a) The provision of two houseboats located in an existing commercial marina for short-term letting 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 provision of two houseboats located in an existing commercial marina for short-term letting is not exempted development having regard to:
 - a. Section 3(3) of the Planning and Development Act, 2000 (as amended) whereby the use of land will be taken to have materially changed if it is used for the keeping of tents, vans or other objects for camping, habitation or the sale of goods.
 - b. Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended) whereby the works would consist of the extension / alteration of an unauthorised structure or a structure the use of which is an unathorised use.
 - c. Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001 (as amended), whereby the works 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, and

Now therefore Clare County Council (Planning Authority), hereby decides that the provision of two houseboats located in an existing commercial marina for short-term letting at Williamstown, Whitegate, Co. Clare is development and is not exempted development.

Name: Caroline Balfe

Executive Planner

Date 22/2/2022

Name: Garreth Ruane

Senior Executive Planner

Date

22/12/22.

Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:					
(a) File Reference No:	P22/701				
(b) Brief description of the project or plan:	PERMISSION for changes to previously granted permission ref: 21/632. The changes are namely 1. change of link building flat roof to slate pitch roof, 2. widening of link building, 3. changes to internal layout of apartments, 4. changes to windows on south, west and north facade, 5. changes to finishes of barn roof and walls, 6. PERMISSION to demolish the existing cottage, and all associated ancillary and incidental works At Main Street Tuamgraney, Co Clare.				
(c) Brief description of site characteristics:	Provision of two houseboats for short-term letting within an existing marina				
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	NPWS				
(e) Response to consultation:	No response received				

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

Having regard to the nature and scale of the proposed development and the sensitive lakeshore setting, the likely zone of impact of the proposed development is approximately 5km.

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
Lough Derg (Shannon) SPA	 Cormorant Phalacrocorax carbo [A017] breeding + wintering Tufted duck Aythya fuligula [A061] wintering + breeding Goldeneye Bucephala clangula [A067] wintering + breeding Common tern Sterna hirundo [A193] Breeding Wetlands and Waterbirds [A999] 	0.03km	Direct connectivity between the proposal site and the SPA	Yes
Slieve Aughty Mountains SPA	 Hen Harrier Circus cyaneus [A082] breeding Merlin Falco columbarius [A098] breeding 	3.02km	No connectivity due to the separation distance to the SPA and the nature of the proposed development site which does not offer optimum habitat for Qualify Interest Species	No
Lough Derg North East Shore SAC	Juniperus communis formations on heaths or calcareous grasslands [5130] Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] Alkaline fens [7230] Limestone pavements [8240]	3km	No likely direct impacts due to the separation distance and location of the proposal site downstream of the SAC. In-combination effects cannot be ruled out	Yes

Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]

Taxus baccata woods of the British Isles [91J0]

Potential for accidents or incidents

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

CTED 2 Assessment (1	ille by Cinness and Essent				
STEP 3. Assessment of I					
(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 excavation/infill/landscaping (including borrow pits) Dust, noise, vibration Lighting disturbance Impact on groundwater/dewatering Storage of excavated/construction materials Access to site Pests	No likely construction phase impacts. It appears the boats will be constructed off-site and transported to the intended mooring location. No new infrastructure / construction is required on the site to facilitate the mooring of the proposed houseboats				
Operational phase e.g. 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)	The development is limited in scale but it will bring a greater presence of people, vehicles and activity to the shoreline. Increased noise Potential impacts on water quality (no wastewater disposal proposals provided)				

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

In-combination/Other

In-combination effects are the greatest concern with this proposal. The development location is within a marina which does not have the benefit of planning permission and has not been assessed in terms of its impacts on European sites.

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

Examples of the type of changes to give consideration to include:

- · 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

Changes to water quality
Increase disturbance of qualifying interest species
Habitat fragmentation (potential in-combination

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

effect)

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 development, alone and in-combination with existing development on the site has the potential to have a significant effect on European sites for reasons including (but not limited to), impacts on water quality, increase noise and activity on the shoreline, habitats disturbance and fragmentation.

Conclusion:	Conclusion:				
	Tick as Appropriate:	Recommendation:			
(i) It is clear that there is no likelihood of significant effects on a European site.		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.		 ☑ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission 			
(iii) Significant effects are likely.		Request NIS Refuse planning permission			
Signature and Date of Recommending Officer:	Cuerolies	22/12/2022 22/12/2022			
Signature and Date of the Decision Maker:	en	22lodn			









Brian Fahy

From:

Brian Fahy

Sent:

Thursday 15 December 2022 10:53

To:

referrals@npws.gov.ie

Subject:

Section 5 Declaration Referral R22-82

Attachments:

R22-82 Thomas Holland,pdf

A chara,

Please see attached Section 5 Declaration application R22-82 for Thomas Holland that has been referred onto you

A decision must issue before the 11th of January 2023 so we would appreciate if you could return your comments before then. Thank you.

Please return your observations to: planoff@clarecoco.ie

Kind Regards,

Brian Fahy

Clerical Officer

Planning Department

Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2

T: 065 6846382 | E: bfahy@clarecoco.ie | W: www.clarecoco.ie

COMHAIRLE CONTAE AN CHLÁIR CLARE COUNTY COUNCIL

ISO 9001:2015 NSAI Certified

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

06/12/2022 14:26:47

Receipt No : L1CASH/0/342213
***** REPRINT *****

THOMAS HOLLAND WILLIAMS TOWN IN NOIGHT POLICY OF THE CO. CLARE R22-82

COMHAIRLE

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

Total: AN CL80,00 EURR

Tendered:

CHEQUES

80.00

0.00

Change:

Issued By: L1CASH - Patricia Quinlivan

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: 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 DETA	AILS.
(a) Name and Address of person seeking the declaration	Thomas Holland Williamstown Whitegate Go. Clare V94 1280
(b) Telephone No.:	L
(c) Email Address:	- 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1
(d) Agent's Name and address:	Refer to 1 a above



2. DE	TAILS R	EGARDI	NG DECI	LARATIO	N BEING	SOUGH	Т		
				FIC QUES			CH A DECLA	ARATION I	S SOUGHT
Sample Qu	estion: Is	the constri	uction of a s	shed at 1 Ma	in St., Enn	is developm	ent and if so is	it exempted de	evelopment?
The	ργονι	5101	for	two A	ivmbe	r boo	its to	be lo	cated
into (an e	x Isti	ng a	MMERC	cial	Marin	a for	Short	berm
lets.	Exer	1Pt	or	NOT	exe	upt	a for to be	clarif	red.
	e a full de ht.	scription (tion/matter	/subject w	761	s wherein a de		he question
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-	ľ				-	-			
	y)								
(c) List of p (Note: I map for	Please pro	ovide a sit	e location		scale of no		on: 1 1:2500 base	d on Ordnan	ce Survey
- 00	1 -1	Floor	Plan Lións				V		
00	2 -	Elevan	tions		005	30	/Mages	3	
003	3 -	11				30	/mage	21	

007 OS. 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:	Whitegate 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):	Owner.
(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: Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.	
(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 enforcement proceeding3
(g)	Were there previous planning application/s on this site? If so please supply details:	# .xes 13337 15768 12737
(h)	Date on which 'works' in question were completed/are likely to take place:	Subject to Provid Approval

SIGNED: Thoms Holle

DATE: 10-11-2022

3

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 Countil
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.:	2.214.222.212.212.212.212.212.212.212.21
Decision:	***********************************	************	

686740 689170 = Planning Pack Map 50 1.95 25 2.37 100 150 50 2.05 200 250 Feet 75 0.66 100 metres U --; M1.86 **OUTPUT SCALE: 1:2,500** 0.54 П 0 \mathbf{m} 0.92 \mathbb{I} а 6.99 π 1.84 7 0 \square 9 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 'Capture Resolution' S 0.21 0.521.53 1.78 Meara's Nancy Point Lough Derg Deirgeirt luggayin's Loch

689170 Ordnance

National Mapping Agency

CENTRE COORDINATES: |TM 577912,688955

PUBLISHED: 09/09/2020

MAP SERIES: 1:5,000 MAP SHEETS: 4100 ORDER NO.: 50140162_1

Dublin 8, Phoenix Park, COMPILED AND PUBLISHED BY:
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of a road, track or footpath is not evidence of the existence of a right of way.

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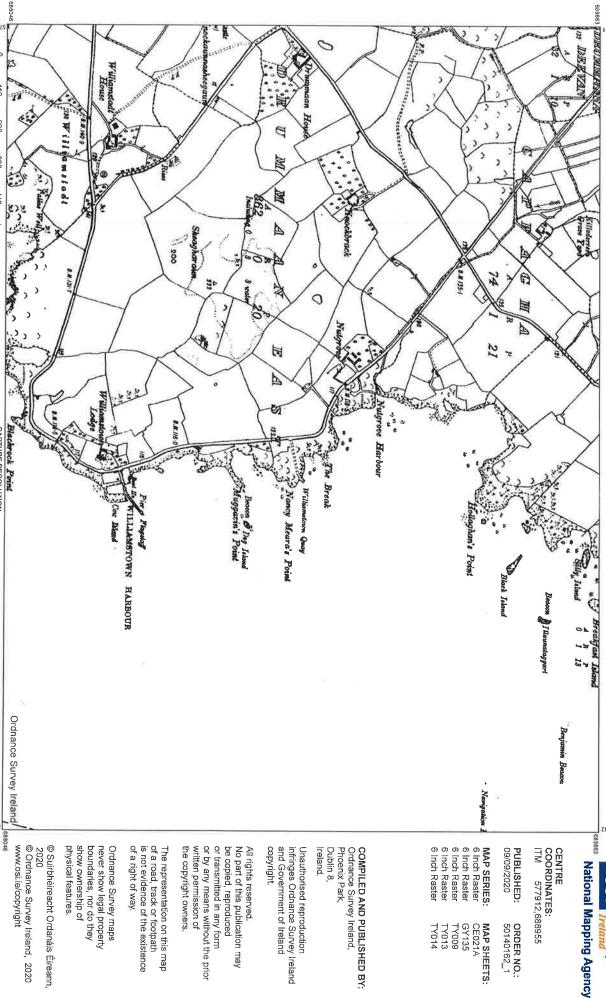
© Ordnance Survey Ireland, 2020

www.osi.ie/copyright

LEGEND:

http://www.osi.ie; search 'Large Scale Legend'

Site Location Map



Ordnance

577912,688955

ORDER NO.: 50140162_1

6 Inch Raster 6 Inch Raster 6 Inch Raster MAP SHEETS: CE021A GY135 TY009 TY013 TY014

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physical features. show ownership of Ordnance Survey maps boundaries, nor do they never show legal property

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http://www.osi.ie; search 'Large Scale Legend' LEGEND:

0 3

200

400

600 800 1,000 Feet

170

220

330

440 metres

OUTPUT SCALE: 1:10,560

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 'Capture Resolution'

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

28/11/2022



REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

To whom it may concern,

In relation to the provision for two boats (houseboats) to be located into an existing commercial marina for the purpose of short term lets.

Please find attached a brief history of Williamstown Quay and documentation/evidence to support the above-mentioned application regarding the ongoing commercial activity, in particular evidence of overnight accommodation/short term lets that has been ongoing at Williamstown Quay since the 1830s.

Williamstown Quay 1826 - present

Williamstown Quay dates back to the early 1800s when it was developed by the Irish steamboat company on lands leased to them by a Patrick Holland. It was used for many years mainly as a goods depot and immigration pier. It was referenced in a select committee in the house of commons in 1830 as one of only three steamboat stations on Lough Derg, Garrykennedy and Domineer being the other two. The Quay has been in continuous use over the years and today currently is used mainly as a private marina.

- I. The Quay was used as a goods depot and an overnight stopover for steamboats to moor up for the night and to provide sheltered accommodation for its crew. Attached documentation showing evidence of receipts from the grand canal company referring to use of the pier for shelter. These boats would have a crew on board who would have used the quay as an overnight accommodation source. This provides evidence of previous use of the marina for short term lets for accommodation purposes.
 Refer to page 3+4 for documentation
- 2. Williamstown Quay had a fishing lodge positioned on same grounds up until recent years. The fishing lodge was let commercially to fishermen and holidaymakers right up until 2010. This fishing lodge has since been knocked and replaced with a dwelling house. This shows short term accommodation and holiday lets have historically been carried out at this Quay. Note it was all under the one folio. *Refer to page 5*.

- 3. Mooring hire and boat rentals have historically been associated with the Marina. Cruisers/canal boats, both past and present, moored at the marina have accommodation quarters on board. Some of these vessels are long term stay while we also accommodate short term stays for those cruising the Shannon. Typically, during the summer months boats park up for long weekends where they explore the area and use their boats for overnight accommodation.
- 4. We have had several visitors stay and camp on the pier over the years, with most of these being return visitors who love the area. See attached photos and some letters of correspondence from previous people who camped on site. Pages 6/7+8+9.

Note – No infrastructure upgrades are proposed at this current time, existing entrance, hard surfaces for parking, jetties that currently service the marina will remain unchanged. Proposed boats(houseboats) will be fully CE certificated.

I hope that the above information is satisfactory in showing that there has long been a history of overnight accommodation in different forms at Williamstown Quay.

Yours sincerely, Thomas Holland and Emma Healy-Holland Williamstown Quay Whitegate Co. Clare V94128d

0851905120



TELEGRAPHIC ADDRESS - GRANAL DUBLIN' TELEPHONE WHERE - IIIZ GINERALMANAGER OF GG. AGENT.

Grand Canal Company

H.PHILLIPS-

Dullin 1stn genter 219

M. P. Holland, Esq. ,

Butgrova,

Whitegate,

Kimorick.

Dear Sir.

boats tying up at your pier. We will agree to pay you allow per annum for allowing our boats to tie up at your pier. It would be impossible to keep an augount of the boats that take shelter at Williamstown and we consider allower annum is a reasonable amount. I enclose cheque for which please send receipt.

Yours truly,

(200)

GRAND CANAL HOUSE,

JAMES'S STERET HARBOUR,

CASHIER'S OFFICE,

SIR, DUBLIN, W.4. 8 th. day of September 1938.

Enclosed please find Cheque in settlement of tha following Accounts due by the Grand Canal Company:—

The state of the s	£	8.	d.
Use of Pier ab Williamstown	10		
	1	. 1	

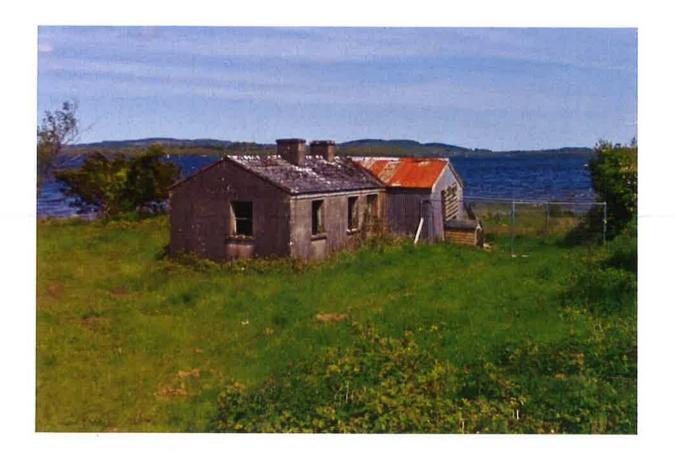
for which you will please return me proper Receipts and all documents enclosed herewith.

Yours truly, J. H. SCOTT

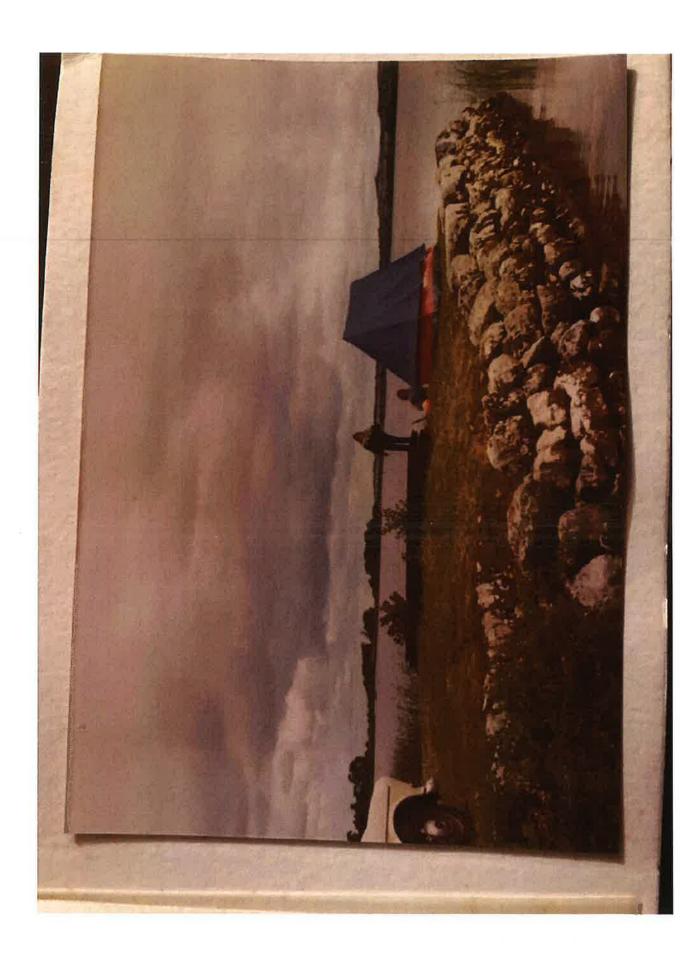
HENRY PAILLES,

General Munager.

M. W. P. Holland







Dear Sire Jenjoyed very much being being bere!

Jam very sorry that I have to leave now. Perhaps we will return next year! thank you very much for camping on your ground! Lydian

Dear Mr. Farmer, 6 o'clock Dear Sir,

I wanted to leave a note for
you, in order to inform you that
I am taking my wife to Shannon,
airport this morning. She will be
leaving for Amsterdam by Transactor
at 9:30 am.
Our three children wished to show

Our three children wisted to stay here and wait for me to be back at ± 12 noon today.

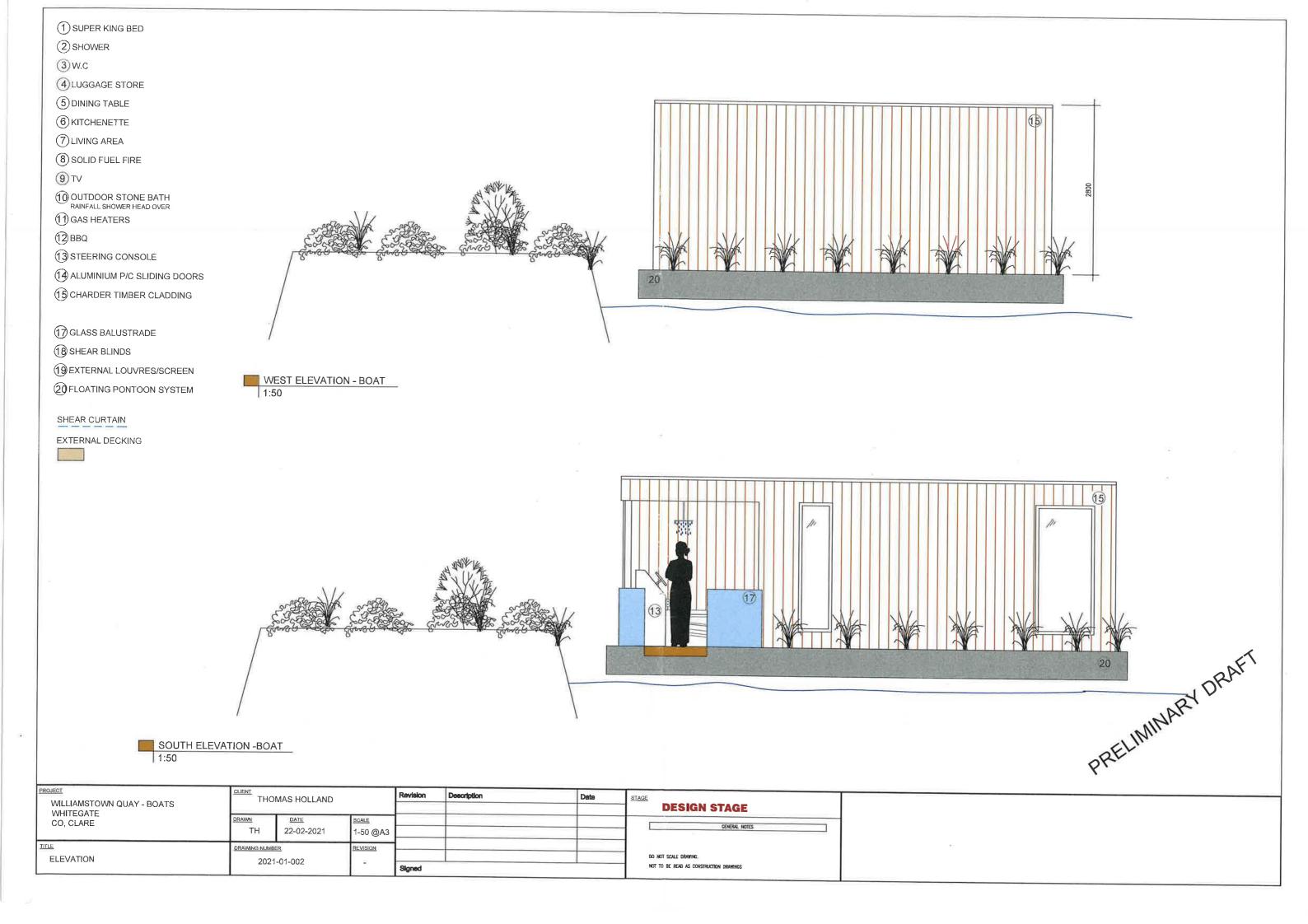
Just in case something might happen, to me on my way, 5'll give your the particulars of the car and a contacting address in Holland-

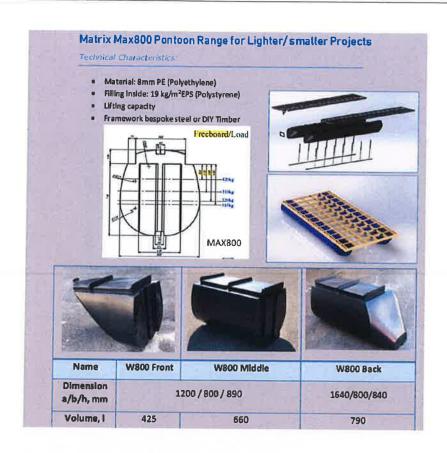
car: Volvo shahronwagon Amazone, belge licence plate 75-AD-07

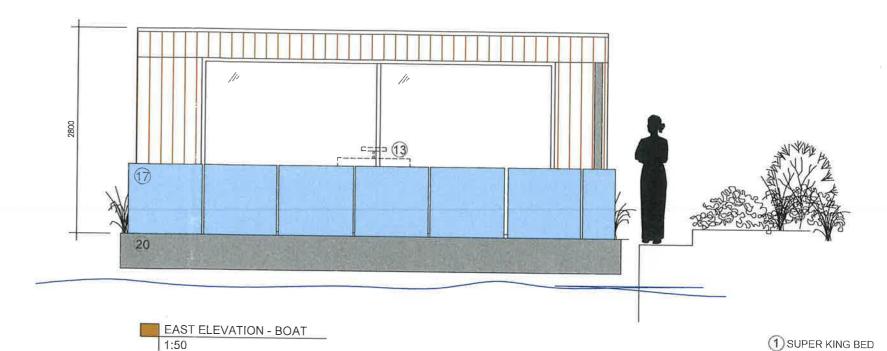
Lourse de Colignylaan 14 Degstgeest-Leiden Holland phone 071-152111

Whitegate 28 March 2010 To whom it may concern This is to state that
the House Boat
"Mary Lou" was beathed - at Hollands, Williamstown Pier for approximately 6 Months during 1974. Yours Sincerely, Lenera Solon

Letter attached from previous houseboat owner confirming their boat was stationed at Williamstown Pier for 6 months in 1974.







2 SHOWER 3 W.C

(9) TV

(12) BBQ

4 LUGGAGE STORE
5 DINING TABLE
6 KITCHENETTE
7 LIVING AREA
8 SOLID FUEL FIRE

0 OUTDOOR STONE BATH RAINFALL SHOWER HEAD OVER

(13) STEERING CONSOLE

14 ALUMINIUM P/C SLIDING DOORS

(15) CHARDER TIMBER CLADDING
(16) 2X OUTBOARD ENGINES
(17) GLASS BALUSTRADE

19 EXTERNAL LOUVRES/SCREEN

20 FLOATING PONTOON SYSTEM

1 GAS HEATERS

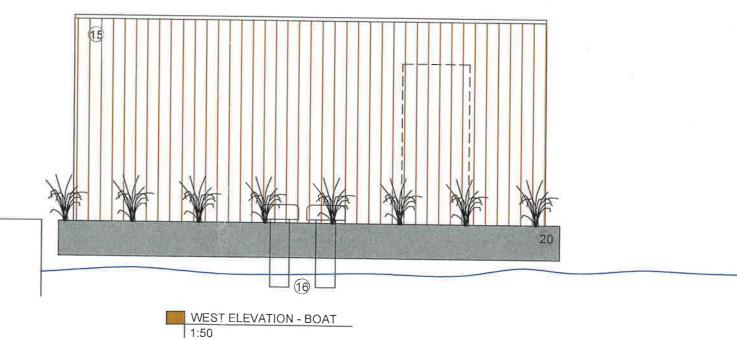
18 SHEAR BLINDS

SHEAR CURTAIN

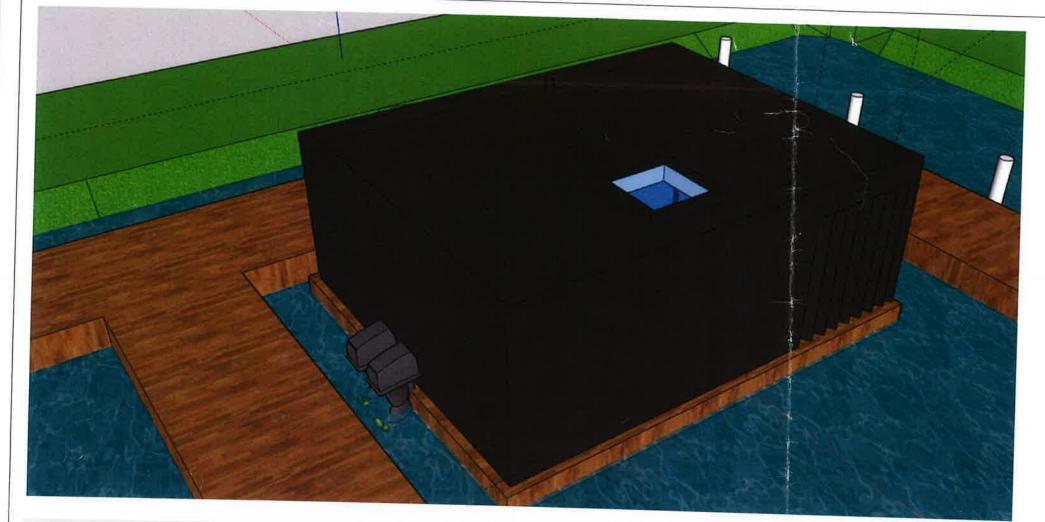
EXTERNAL DECKING



TYPICAL PONTOON CATAMARAN



WILLIAMSTOWN QUAY - BOATS WHITEGATE CO, CLARE	THOMAS HOLLAND			Revision	Description	Date	DESIGN STAGE
	<u>dravn</u> TH	DATE 22-11-2022	1-50 @A3				GENERAL NOTES
ELEVATION	DRAWING NUMBER		REVISION				DO NOT SCALE DRAWING.
	2021-01-003		5	Signed			NOT TO BE READ AS CONSTRUCTION DRAWINGS

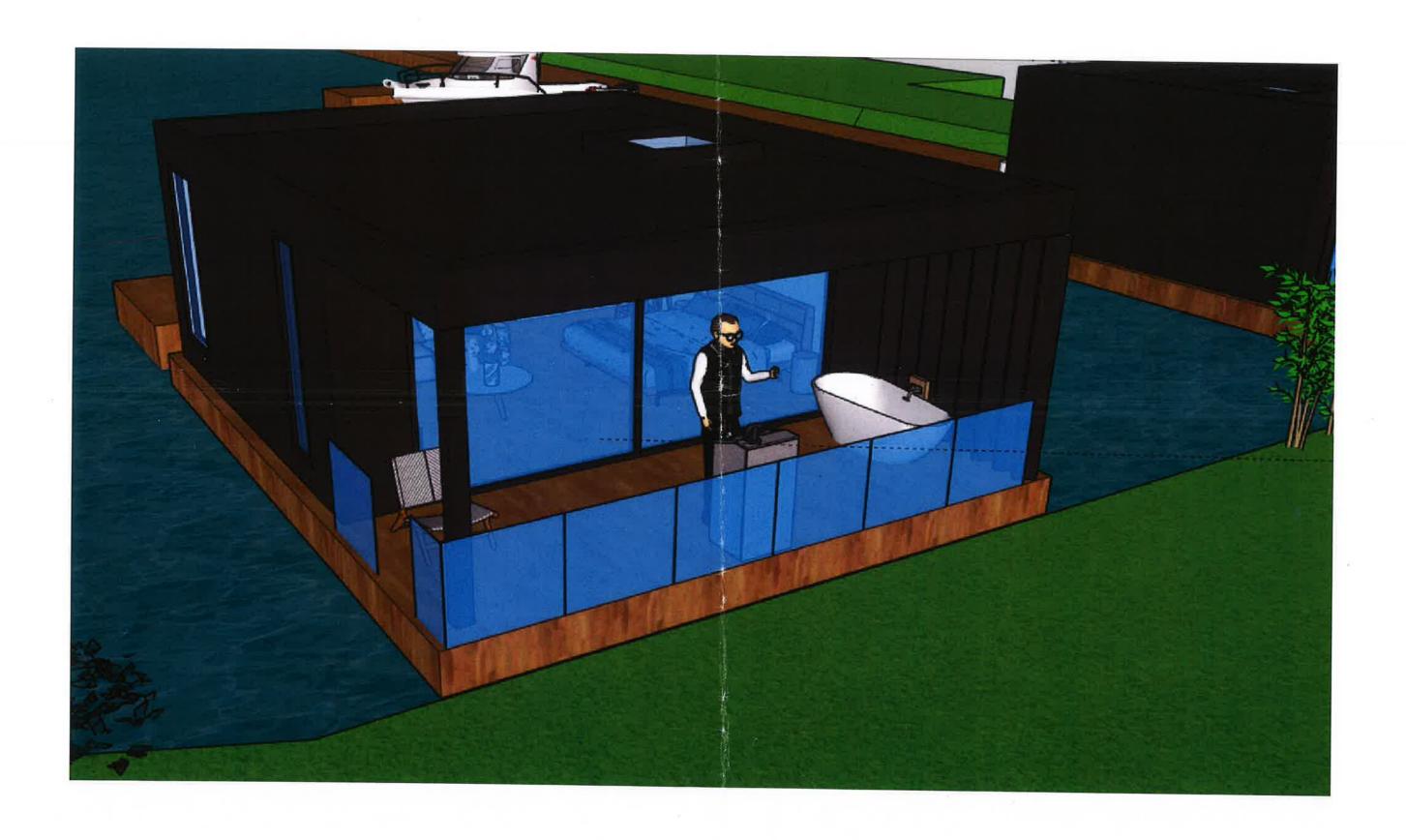


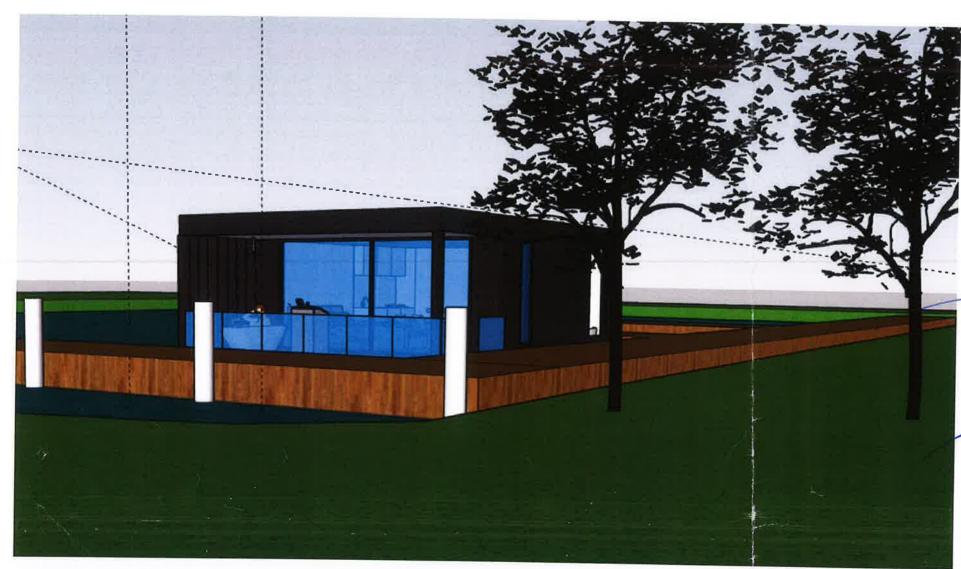


- Existing Landborn
- Existing Jettics

SITE LAYOUT.







All existing Jetties.

-Existing Landbank.

