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CONTAE AN CHLÁIR | COUNTY COUNCIL

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**Micháel O'Donoghue
Whitemount
Kilnaboy
Corofin
Co. Clare
V95 V4HY**

16th March 2023

Section 5 referral Reference R23-14 – Micháel O'Donoghue

Is the moving of an entrance gate 100 yards due to the proximity to the road development, and if so, is it exempted development?

A Chara,

I refer to your application received on 27th February 2023 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 Stiúthóireacht 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



SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED
DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

81389

R23-14

27th February 2023

Micháel O'Donoghue

Whitemount, Kilnaboy, Co. Clare

Is the moving of an entrance gate 100 yards due to the proximity to the road development, and if so, is it exempted development?

- (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 27/ 02/ 23.

- (a) The proposed entrance 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 come within the restrictions on exempted development contained in Article 9(1)(a)(ii) & (iii) 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 and is located on a strategic regional road R476, Fountain Cross to Kilfenora and wherein the absence of detailed design and access proposals, it is considered that the proposal would endanger public safety by reason of a traffic layout.

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 proposal to move an entrance gate 100 yards due to the proximity to the road is considered development which is not exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

16th March 2023

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

Reference No.: R23-14



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-14

Is the moving of an entrance gate 100 yards due to the proximity to the road development, and if so, is it exempted development?

AND WHEREAS, Micháel O'Donoghue 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 27/ 02/ 23.

And whereas Clare County Council has concluded:

- (a) The proposed entrance 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 come within the restrictions on exempted development contained in Article 9(1)(a)(ii) & (iii) 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 and is located on a strategic regional road R476, Fountain Cross to Kilfenora and wherein the absence of detailed design and access proposals, it is considered that the proposal would endanger public safety by reason of a traffic layout.

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 proposal to move an entrance gate 100 yards due to the proximity to the road 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

16th March 2023

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

FILE REF:	R23-14
APPLICANT(S):	Mich��el O Donoghue
REFERENCE:	Whether the moving of an entrance gate 100 yards due to the proximity of the road is or is not development and is or is not exempted development .
LOCATION:	Whitemount, Kilnaboy , County Clare
DUE DATE:	23 March 23.

Site Location

The subject site is located at Whitemount Kilnaboy on the R476 Strategic Regional Road. The zone of notification associated with CL017-005 ring fort cashel extends to the road front boundary of the subject lands.

Planning History on Site

None

Background to Referral

This referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made Mich  el O Donoghue. The applicant is seeking a Section 5 Declaration as to whether the proposal to move an entrance gate 100 yards due to the proximity to the road 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.
- Aerial map of the landholding outlined in magenta.

Referrals

West Clare MDO Report

No report received

Road Design Office Report

No report received.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

Section 2

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

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

Section 3.(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	Column 2
Description of Development	Conditions & Limitations

<p>Class 9 Sundry Works</p> <p>The construction , erection, renewal, or replacement other than within or bounding the curtilage of a house of any gate or gateway.</p>	<p>The height of any such structure shall not exceed 2m .</p>
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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></p> <p><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 “works” and hence constitutes development in accordance with Section 3(1) of the Planning and Development Act 2001 (as amended).

The Regulations

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.

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 ‘ move an entrance gate 100 yards ’. No detail has been submitted about the location of the existing entrance or the location of the new entrance along the scenic route, R 476 (Strategic regional road Fountain Cross to Kilfenora). No details of the materials or height of the existing or proposed boundary treatment have been submitted.

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 not 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 width of which is not specified but is understood be greater than 4m given that it is a strategic regional road (R476).***

*(iii) endanger public safety by reason of traffic hazard or obstruction of road users. **No details have been submitted about the location of the existing entrance or the location of the proposed new entrance nor any detail regarding the sightlines that would be available from the entrance or how the entrance would be laid out and constructed or tied in to existing boundaries. It is not possible to confirm having regard to the details received to date whether the proposed development would 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. **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 the predominant land use is 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 zone of notification associated with CL017-005 ring fort cashel extends to the road front boundary of the subject lands. It is not clear from the detail received if the location of the new entrance will over lap with this zone and potentially comprise the excavation, alteration or demolition (other than peat extraction) of a features of archaeological, geological, interest, the preservation, conservation or protection of which is an objective of a development 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. The proposed works may result in the excavation, alteration or demolition of the recorded monument referred to at VII.

(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, the AA screening determination 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.

In addition it is not clear if a national monument would be adversely affected by the proposed works.

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 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), (iii), (vii) and (vii A).

Recommendation

The following question has been referred to the Planning Authority:

Whether the proposal to move an entrance gate 100 yards due to the proximity to the road 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 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 27/ 02/ 23.

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

- (a) the proposed ^{entrance} 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 ^{and (iii)} 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 and is located on a strategic region^{al} road, R476, Fountain Cross to Kilfenora *and where in the absence of detailed design + access proposals, it is considered that the proposal would endanger public safety by reason of a traffic hazard.*

Now therefore Clare County Council (Planning Authority), hereby decides the development consisting of the proposal to move an entrance gate 100 yards due to the proximity to the road is development and is not exempted development.

Ellen Coag.
Executive Planner
Date: 15/03/23.

GN
Senior Executive Planner
Date: 15/03/23

Appropriate Assessment & Determination

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

(a) File Reference No:	Section 5 R23/ 14
(b) Brief description of the project or plan:	Whether the xxxxxxxxxxxxxxdevelopment and if so is it exempted development .
(c) Brief description of site characteristics:	Entrance on the southern side of the R476 at Kilnaboy Field in agricultural use
(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
East Burren Complex SAC	Annex I - Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140] • *Turloughs [3180] • Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260] • Alpine and Boreal heaths [4060] • Juniperus communis formations on heaths or calcareous grasslands [5130] • Semi-natural dry grasslands and	300m to the east	None	No

	scrubland facies on calcareous substrates (Festuco Brometalia)(*important orchid sites) [6210] • Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510] • Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] • Petrifying springs with tufa formation (Cratoneurion) [7220] • Alkaline fens [7230] • Limestone pavements [8240] • Caves not open to the public [8310] • *Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno- Padion, Alnion incanae, Salicion albae) [91E0] Annex II species: • Marsh fritillary Euphydryas Annex II- Marsh Fritillary, lesser horse shoe bat and Otter.			
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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.)

<p>Construction phase e.g.</p> <ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • Surface water runoff from soil • Demolition of existing boundary
<p>Operational phase e.g.</p> <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:

<p>Examples of the type of changes to give consideration to include:</p> <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
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(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


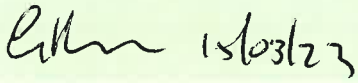
The assessment of significance of effects:

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:	15/03/23	<div> Name: Ellen Carey E.P.</div>
Signature and Date of the Decision Maker:		<div></div>



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Michéal O'Donoghue
Whitemount
Kilnaboy
Corofin
Co. Clare
V95 V4HY

27/02/2023

Section 5 referral Reference R23-14 – Michéal O'Donoghue

Is the moving of an entrance gate 100 yards due to the proximity to the road development, and if so is it exempted development?

A Chara,

I refer to your application received on 27th February 2023 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


Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúirthóireacht 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
Aras Contae an Chlair
New Road
Ennis
Co Clare

27/02/2023 12:27:20

Receipt No. : L1CASH/0/345900
***** REPRINT *****

MICHEAL O'DONOGHUE
WHITEMOUNT KILNABOY
COROFIN, CO CLARE
V95 V4H7

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

Total : 80.00 EUR

Tendered :
CHEQUES 80.00

Change : 0.00

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



R23-14

**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>MICHAEL O DONOGHUE</p> <p>WHITEMOUNT</p> <p>KILNABOY</p> <p>COROFIN</p> <p>CO CLARE</p> <p>Eircode: V95V4HY</p>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<p></p> <p></p> <p></p> <p></p> <p>EIRCODE: 4</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 moving an entrance gate 100 yds a development
 I need to move it as I can't get in or out of my
 land as entrance is too close to bend on the road.

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

I have been involved in an accident
 at that entrance and for safety reasons
 the entrance will have to be moved to
 straight stretch of road as someone is going
 to get killed I need to get in with
 slurry the latest end of March and as the
 existing entrance is on a bend it impossible to
 get in or out so I hope this can be
 resolved as soon as possible as I need
 proper access to my land. (Thanks)

- (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)

Maps provided

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Rougham Kilnaboy Corofin 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):	LAND 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: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	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:	No
(h) Date on which 'works' in question were completed/are likely to take place:	As soon as possible

SIGNED: Milán O'Donoghue

DATE: 23/2/23

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:.....



An Roinn Talmhaíochta,
Bia agus Mara
Department of Agriculture,
Food and the Marine

For Basic Payment Scheme,
Areas of Natural Constraint Scheme and
other Area-Based Schemes Purposes only
Year: 2021 Scale: 1:5000

Name: Michael O'Donoghue
Address: Whittemount
Kilnaboy
Ennis
Co Clare

Townland Code: C11823
Townland Name: ROUGHAN

Parcel Digitised MEA* Claimed
C11823041 5.82 5.16 5.50

Exclusions	Parcel	Excl	Area	Red%	Elig Type
	C11823041	X02	0.0090	100%	0.00 Stream
	C11823041	X03	0.45	100%	0.00 Scrub
	C11823041	X04	0.495	60%	0.18 Scrub

Ortho Used: Color Ortho Full Coverage



All areas displayed above are in hectares
* MEA calculation available online via agfood.ie
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