



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Micheál Ó Loinsigh**  
c/o Michael Hehir  
McKenna Consulting Engineers  
Miltown Malbay  
Co. Clare

**13th February 2023**

**Section 5 referral Reference R23-2 – Micheál Ó Loinsigh**

Is the construction of a 7.3m wide gate entrance to a field and a hardcore / gravel road development, and if so, is it exempted development?

A Chara,

I refer to your application received on 20th January 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](http://www.pleanala.ie)

Mise, le meas

**Josephine Connors**  
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: 81220

Reference Number: R23-2

Date Referral Received: 20th January 2023

Name of Applicant: Micheál Ó Loinsigh

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

**Section 5 referral Reference R23-2 – Micheál Ó Loinsigh**

Is the construction of a 7.3m wide gate entrance to a field and a hardcore / gravel road 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, 8 and 9 of the Planning and Development Regulations 2001, as amended, and
- (c) Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on 20<sup>th</sup> January 2023.

**AND WHEREAS** Clare County Council has concluded:

- (a) the construction of a 7.3 metre wide gated entrance to a field and a hardcore/gravel road at Drommin, Miltown Malbay, County Clare constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) the said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) the said development comprising of the construction of a 7.3 metre wide gated entrance to a field and a hardcore/gravel road at Drommin, Miltown Malbay, County Clare is not exempted development having regard to Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and Articles 8(c) and 9(viii) of the Planning and Development Regulations 2001, as amended, as the onsite works do not relate to the repair or improvement of an existing way, the width of the internal road is greater than 3 metres, the onsite works do not constitute the reclamation of lands, the infill material comprises of stone not soil, and the existing access comprises the extension of an existing unauthorised structure (i.e. the internal road and hard stand area).

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> 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 construction of a 7.3 metre wide gated entrance to a field and a hardcore/gravel road at Drommin, Miltown Malbay, Co. Clare is considered both works and development which is not exempted development.

Signed:

  
GARETH RUANE  
SENIOR EXECUTIVE PLANNER 

Date:

13th February 2023

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

**Reference No.: R23-2**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R23-2**

**Is the construction of a 7.3m wide gate entrance to a field and a hardcore / gravel road development, and if so, is it exempted development?**

**AND WHEREAS, Micheál Ó Loinsigh** 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, 8 and 9 of the Planning and Development Regulations 2001, as amended, and
- (c) Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on 20<sup>th</sup> January 2023.

**And whereas Clare County Council has concluded:**

- (a) the construction of a 7.3 metre wide gated entrance to a field and a hardcore/gravel road at Drommin, Miltown Malbay, County Clare constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) the said works constitute "*development*" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) the said development comprising of the construction of a 7.3 metre wide gated entrance to a field and a hardcore/gravel road at Drommin, Miltown Malbay, County Clare is not exempted development having regard to Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and Articles 8(c) and 9(viii) of the Planning and Development Regulations 2001, as amended, as the onsite works do not relate to the repair or improvement of an existing way, the width of the internal road is greater than 3 metres, the onsite works do not constitute the reclamation of lands, the infill material comprises of stone not soil, and the existing access comprises the extension of an existing unauthorised structure (i.e. the internal road and hard stand area).

**THEREFORE:** The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the construction of a 7.3 metre wide gated entrance to a field and a hardcore/gravel road at Drommin, Miltown Malbay, Co. Clare **constitutes both works and development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



**Josephine Connors**  
**Staff Officer**  
**Planning Department**  
**Economic Development Directorate**

**13th February 2023**

CLARE COUNTY COUNCIL SECTION 5 DECLARATION OF EXEMPTION APPLICATION PLANNERS REPORT	
<b>FILE REF:</b>	R23-2
<b>APPLICANT(S):</b>	Micheál O'Loinsigh
<b>REFERENCE:</b>	Whether the construction of a 7.3 metre wide gated entrance to a field and a hardcore/gravel road is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Drommin, Miltown Malbay, County Clare
<b>DUE DATE:</b>	15 <sup>th</sup> February 2023

### **Site Location**

The site is located in the rural townland of Drommin and is to the south of the LS6268 local secondary road. It is approximately 120 metres west of the N67 national road which is a designated "Scenic Route" in the Clare County Development Plan 2017-2023 (as varied). It is within a "Heritage Landscape". The site is located to the west of a row of single storey style dwellings. There is also a row of dwellings on the opposite side of the road from the site. It is a relatively level site that accommodates a double gated access and an area infilled with stone. The roadside boundary is a low grassed ditch. Views towards the site are available from the road network to the north and south east.

### **Recent Onsite Planning History**

UD21-116 – Ongoing – Warning letter issued to Mr O'Loinsigh on the 16<sup>th</sup> December 2021 with regard to the creation of a new entrance and a hard stand area.

09-73 – Refused – Maureen Lynch - to construct a dwelling house, sewerage treatment system and percolation area along with associated site works. Permission was refused for the following reasons:

1. Having regard to the poor percolation qualities of the ground, the planning authority considers that the proposed development site is not suitable for the safe disposal of domestic effluent notwithstanding the proposed use of a proprietary wastewater treatment system. For this reason, and also taking account of the density of wastewater treatment plants in a limited area it is considered that the proposed development would be prejudicial to public health and contrary to the proper planning and sustainable development in the area.

2. This site is located in open countryside, in an area designated as a **Vulnerable Landscape** in the 2005-2011 Clare County Development Plan where it is the policy of the Planning Authority, as set out under Policy CDP 68 to permit, subject to site suitability, a single house for the permanent occupation and housing needs of local rural persons where it can be demonstrated that they are built to a high quality of design and the siting and layout do not result in significant adverse impacts on the character, integrity or uniformity of the landscape.

The Council considers that the applicant does not comply with the policies as set out in Housing Outside Settlements section of the Plan. Accordingly the proposed development would materially contravene the objectives of the 2005-2011 Clare County Development Plan and would be contrary to the proper planning and sustainable development of the area.

08-1313 – Refused – Maureen Lynch - to construct a dwelling house, sewerage treatment system and percolation area along with associated site works. Permission was refused for the following reasons:

1. Having regard to the poor percolation qualities of the ground, the planning authority considers that the proposed development site is not suitable for the safe disposal of domestic effluent notwithstanding the proposed use of a proprietary wastewater treatment system. For this reason, and also taking account of the density of wastewater treatment plants in a limited area it is considered that the proposed development would be prejudicial to public health and contrary to the proper planning and sustainable development in the area.
2. The proposed development would be located at a prominently visible location adjacent to the N67 National Road which, under Policy CDP 51 in the 2005-2011 Clare County Development Plan, is designated as a scenic route. By reason of the site location and the siting of the proposed dwelling, it is considered that the development proposed would detract from the scenic amenities of the area and would interfere with views and prospects obtained from the scenic route, the protection of which is an objective of Planning Authority as expressed in the 2005-2011 County Development Plan. The proposed development would therefore seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.
3. This site is located in open countryside, in an area designated as a **Vulnerable Landscape** in the 2005-2011 Clare County Development Plan where it is the policy of the Planning Authority, as set out under Policy CDP 68 to permit, subject to site suitability, a single house for the permanent occupation and housing

needs of local rural persons where it can be demonstrated that they are built to a high quality of design and the siting and layout do not result in significant adverse impacts on the character, integrity or uniformity of the landscape.

The Council is not satisfied based on the information submitted that the applicant complies with the policies as set out in Housing Outside Settlements section of the Plan. Accordingly the proposed development would materially contravene the objectives of the 2005-2011 Clare County Development Plan and would be contrary to the proper planning and sustainable development of the area.

### **Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Micheál O'Loinsigh who is the stated owner of the site. The applicant is seeking a Section 5 Declaration as to whether the construction of a 7.3 metre wide gated entrance to a field and a hardcore/gravel road at Drommin, Miltown Malbay, County Clare is or is not development and is or is not exempted development.

### **Statutory Provisions**

#### **Planning and Development Act, 2000 (as amended)**

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

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.*

#### **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 Part 1, Class 13

*The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving*

*The width of any such private footpath or paving shall not exceed 3 metres.*

#### Part 2 Article 8C

Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.

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 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,*
  - (iv) 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

### Particulars of the Development

On the date of the site visit on the 1 I noted that the access and hardcore/gravelled area remains in place. Based on approximate measurements the tarred surface of the road is less than 4 metres in width.

### Planning Exemption Assessment

#### Schedule 2 Part 1, Class 13

*The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving*

Based on the available information there was no “way” along the route of the current internal road and therefore the works do not constitute repair or improvement works.

*The width of any such private footpath or paving shall not exceed 3 metres.*

The internal road is wider than 3 metres.

#### Part 2 Article 8C

Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.

The works are not reclamation works. They relate to the inclusion of a new access, road and hardstand area.

### Article 9 of the Planning and Development Regulations 2001, as amended

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below (for both the dwelling extension and the garage):

- (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

Not applicable.

- (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 road is less than 4 metres in width.

- (iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*

Visibility at the access in line with the requirements of the Clare County Development Plan 2017-2023 (as varied) are not demonstrated on the information received. However, on the date of the site visit I noted the low height of the adjacent roadside boundaries, the good vertical and horizontal alignment of the local road and the visibility available from the access. Having regard to the above and the stated use I consider that the access does not constitute a traffic hazard.

- (iv) *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 main views towards the site are local passing views on the adjacent local road. Whilst located in a designated "Heritage Landscape" I do not consider that the access and onsite works interfere significantly with the character of the Heritage Landscape.

- (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,*

This is not applicable in this instance.

- (vi) *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,*

This is not applicable in this instance.

(vii)

- a. *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,*

This is not applicable in this instance.

- b. *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 site is located outside of any European Site designation. This is not applicable in this instance. See attached AA Screening Report.

- c. *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."*

This is not applicable in this instance.

- (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,*

The onsite road and hardstand area do not have the benefit of planning permission, do not constitute exempted development and are therefore unauthorised. The access and gates comprise a part of this overall development.

- (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,*

This is not applicable in this instance.

- (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,*

This is not applicable in this instance.

(xi) *obstruct any public right of way,*

This is not applicable in this instance.

(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.*

This is not applicable in this instance.

### **Recommendation**

I recommend that the following is issued to the applicant by the Planning Authority in this instance:

**The Planning Authority in considering this referral had regard to:**

- (a) Sections 2, 3, <sup>and</sup> 4 ~~and 40~~ of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 8 and 9 of the Planning and Development Regulations 2001, as amended, and
- (c) Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on 20<sup>th</sup> January 2023.


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

- (a) the construction of a 7.3 metre wide gated entrance to a field and a hardcore/gravel road at Drommin, Miltown Malbay, County Clare constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development comprising of the construction of a 7.3 metre wide gated entrance to a field and a hardcore/gravel road at Drommin, Miltown Malbay, County Clare is not exempted development having regard to Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and Articles 8(c) and

9(viii) of the Planning and Development Regulations 2001, as amended, as the onsite works do not relate to the repair or improvement of an existing way, the width of the internal road is greater than 3 metres, the onsite works do not constitute the reclamation of lands, the infill material comprises of stone not soil, and the existing access comprises the extension of an existing unauthorised structure (i.e. the internal road and hard stand area).

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a 7.3 metre wide gated entrance to a field and a hardcore/gravel road at Drommin, Miltown Malbay, County Clare constitutes both works and development that is not exempted development.

  
A/Executive Planner  
Date: 10<sup>th</sup> February 2023

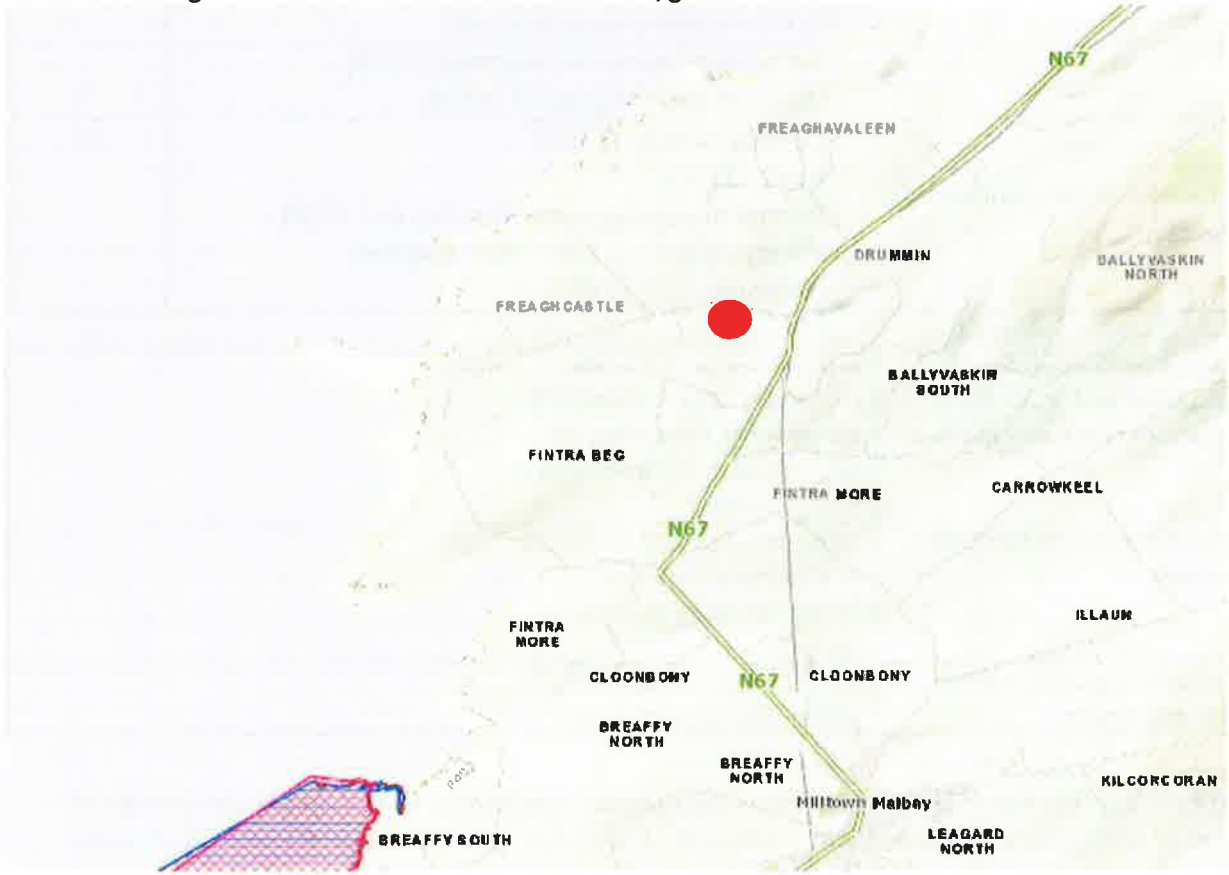
  
Senior Executive Planner  
Date: 10/02/23.

## Clare County Council

### Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

**Table 1: Project Details**

Planning File Reference	R23-2
Applicant Name	O'Loinsigh
Development Location	Drommin, Miltown Malbay
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
7.3 metre wide gated entrance to a field and a hardcore/gravel road	
	

**Table 2: Identification of European sites which may be impacted by the proposed development.**

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)<sup>1</sup> is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

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

European Sites <sup>2</sup>	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on <a href="http://www.npws.ie/protectedsites">www.npws.ie/protectedsites</a> ) or through Intranet.	Distance to Applicant Site (km)
Mid Clare Coast SPA	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Barnacle Goose ( <i>Branta leucopsis</i> ) [A045] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Sanderling ( <i>Calidris alba</i> ) [A144] Purple Sandpiper ( <i>Calidris maritima</i> ) [A148] Dunlin ( <i>Calidris alpina</i> ) [A149] Turnstone ( <i>Arenaria interpres</i> ) [A169] Wetland and Waterbirds [A999]	3.2
Carrowmore Point to Spanish Point and Islands SAC	Coastal lagoons [1150] Reefs [1170] Perennial vegetation of stony banks [1220] Petrifying springs with tufa formation (Cratoneurion) [7220]	3.2

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?	No
2	Impacts on terrestrial habitats and species.	Is the development within 1km of a European site with terrestrial based habitats or species?	No
3	Impacts on designated marine habitats and species.	Is the development located within marine or intertidal	No

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

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

		<i>areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	
<b>4</b>	<b>Impacts on birds in SPAs</b>	<i>Is the development within 1km of a Special Protection Area</i>	No
<b>5</b>	<b>Indirect effects</b>	<i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No – minor nature of works, distance from designation and no direct hydrological link

**Conclusion:** If the answer to all of the above is no, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.  
If the answer is “unknown” or “yes” proceed to Table 3 and refer to the relevant sections of Table 3.

Appropriate Assessment Screening Determination	
<b>Planning File Reference</b>	R23-2
<b>Proposed Development</b>	Access, & internal road / hard stand area
<b>Development Location</b>	Drommin
<b>European sites within impact zone</b>	As per report
<b>Description of the project</b>	
Access, road and gravelled yard	
<b>Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site</b>	
As per report	
<b>Describe how the project or plan (alone or in combination) is likely to affect the European site(s).</b>	
No impacts envisaged.	
<b>If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?</b>	
minor nature of works, distance from designation and no direct hydrological link	
<b>Documentation reviewed for making this statement</b>	
NPWS website Plans and particulars received GIS mapping database	
<b>Conclusion of assessment (a, b, c or d)</b>	
<b>(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s)<sup>3</sup></b>	
<b>(b) There is no potential for significant effects to European Sites<sup>3</sup></b>	Yes
<b>(c) The potential for significant effects to European Site(s) cannot be ruled out<sup>4</sup></b>	
<b>(d) Significant effects to European</b>	

<sup>3</sup> Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

<sup>4</sup> In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from [http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura\\_2000\\_assess\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf)

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010 <sup>5</sup>	
Completed By	John O'Sullivan
Date	10 <sup>th</sup> February 2023

*John O'Sullivan*  
10/02/23.

<sup>5</sup> The proposed development must either by refused planning permission or alternatively an 'Appropriate Assessment' (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an 'appropriate assessment' should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.















Clare County Council  
Aras Coirí an Chláir  
New Rd  
Ennis  
Co Clare



20/01/2023 15:46:44

Receipt No. : L1CASH/0/344045

\*\*\*\*\* REPRINT \*\*\*\*\*

MICHEÁL Ó LOINSIGH  
C/O MICHEAL HEHIR  
MCKENNA CONSULTING ENGINEERS  
MILTOWN MALBAY  
CO CLARE  
R23/2

COMHAIRLE  
CONTAE  
AN CHLÁIR

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

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

Change : 0.00



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R23-2

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](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://www.clarecoco.ie)



**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT  
(Section 5 of the Planning & Development Act 2000 (as amended))**

**FEE: €80**

*This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority*

1. CORRESPONDENCE DETAILS.	
(a) Name and Address of person seeking the declaration	<p>Micheál Ó Loinsigh</p> <p>Leagard House</p> <p>Mullagh Road</p> <p>Miltown Malbay</p> <p>V95 W4A7</p>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<p>Michael Hehir</p> <p>Mckenna Consulting Engineers</p> <p>Miltown Malbay</p> <p>Co. Clare</p>

## 2. DETAILS REGARDING DECLARATION BEING SOUGHT

- (a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT  
*Note: only works listed and described under this section will be assessed.*

Sample Question: Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?

Is the construction of a 7.3m wide gate entrance to a field and a hardcore/gravel road development and if so is it exempted development?

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

+ The Applicant inherited the land from his mother  
 + There was an old gate entrance into originally what was the field + a post was still visible in the wall

+ The Applicant put in a new double gate (7.3m wide) entrance into the land. The new gate was in the same location as the old gate

+ The Applicant was using the land as a vegetable garden. To get compost into the land at the rear, he put down hardcore/gravel road to allow truck deliveries.

+ Once the compost has been delivered he will reduce the double gate to a single gate

- (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)*

- SITE LOCATION MAP

- Drawing DETAILING WORKS

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Drommin Milrow Malbay 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:  <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	N/A
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	yes
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	UD21-116
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	P08/1313 & P09/73
(h) Date on which 'works' in question were completed/are likely to take place:	

SIGNED:

  
 (Agent: Michael Kehir)

DATE:

18/1/2023

### **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:.....			

# Land Registry Compliant Map



National Mapping Agency

**CENTRE**  
**COORDINATES:**  
ITM 505144,681903

**PUBLISHED:** 01/12/2022  
**ORDER NO.:** 50305668\_2

**MAP SERIES:** 1:5,000  
**MAP SHEETS:** 4199

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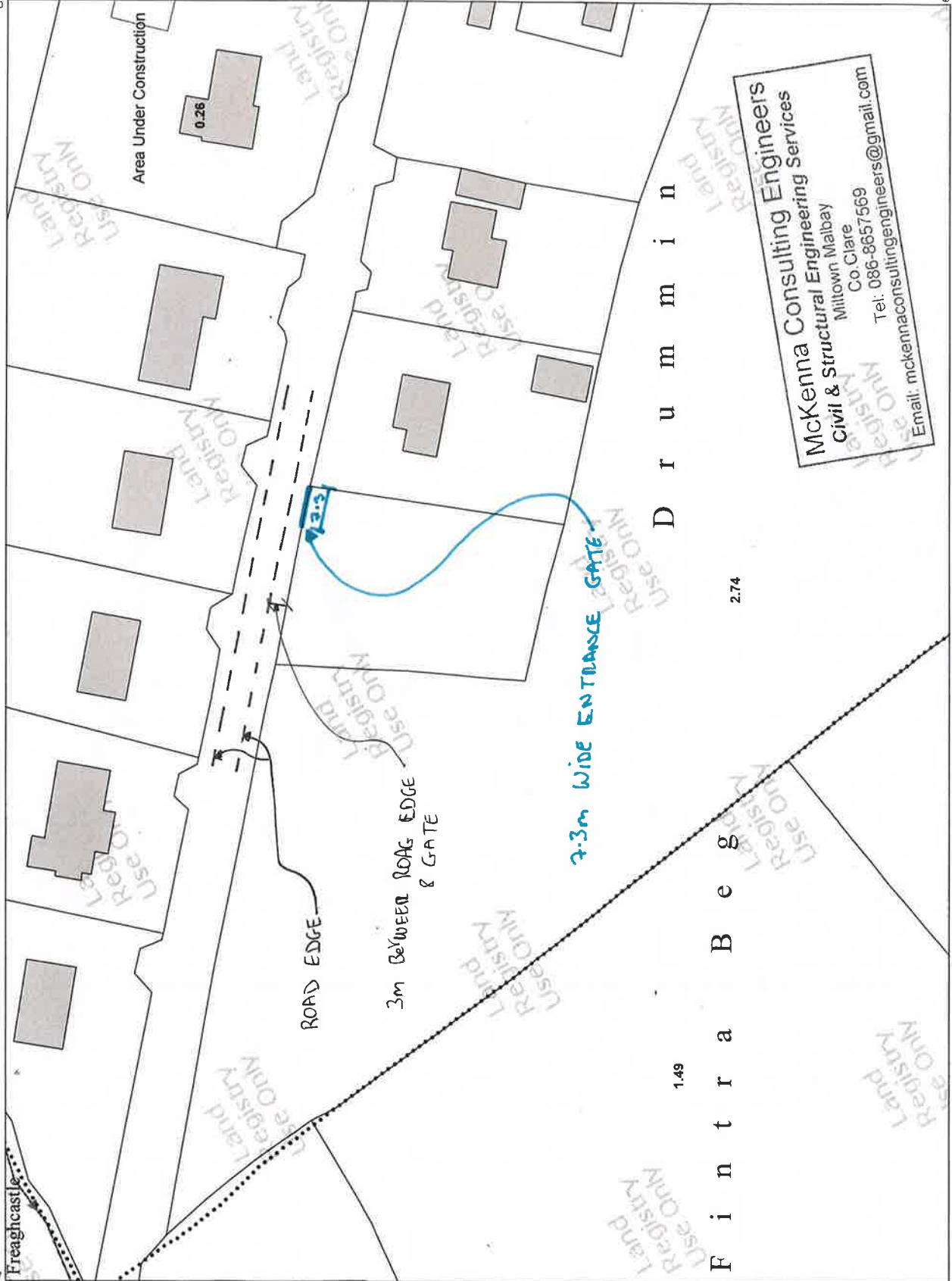
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**National Mapping Agency**

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