



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Amy Logue & Oisin Kenneally
c/o Avriil Collentine
William Cahir & Associates
36 Abbey St
Lifford
Ennis
Co. Clare

4th May 2023

Section 5 referral Reference R23-25 – Amy Logue & Oisin Kenneally

Can the kerb to our property be lowered in order for a vehicle to access the driveway of our property - Is planning permission required?

A Chara,

I refer to your application received on 13th April 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 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

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No:

81686

Reference Number:

R23-25

Date Referral Received:

13th April 2023

Name of Applicant:

Amy Logue & Oisin Kenneally

Location of works in question:

No. 40 Marian Ave., Ennis, Co. Clare

Section 5 referral Reference R23-25 – Amy Logue & Oisin Kenneally

Can the kerb to our property be lowered in order for a vehicle to access the driveway of our property - Is planning permission required?

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) The definition of a road as set out in the Roads Act 1993, as amended,
- (c) The works as indicated in submitted documents received by the Planning Authority on 13th April 2023.

AND WHEREAS Clare County Council has concluded:

- (a) The provision of a dropped kerb would involve works to the public road based on the definition of a road as set out in the Roads Act 1993, as amended,
- (b) The responsibility for the maintenance of a public road lies with the Local Authority,
- (c) Under Section 4 (e) of the Planning & Development 2000, as amended, the carrying out of maintenance or improvements works by a Local Authority constitutes exempted development,
- (d) Under Section 4 (f) of the Planning & Development 2000, as amended, development carried out on behalf of, or jointly or in partnership with, a local authority, pursuant to a contract entered into by the local authority concerned, whether in its capacity as a planning authority or in any other capacity, constitutes exempted development.

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 a dropped kerb at 40 Marion Avenue, Ennis, Co. Clare would only constitute exempted development where such works are carried out by the Local Authority or jointly or in partnership with, a local authority as per Sections 4 (e) and 4 (f) of the Planning & Development Act, 2000, as amended.

Advice Note to Applicant

The applicant is advised that the proposed works would require the consent of the Local Authority and the benefit of a road opening license. An application for a road opening license may be made at www.rmo.ie and applicants are advised to discuss same with the Ennis MD office.

On the date of the site inspection, it was observed that works had been carried out to the front boundary wall of number 40 Marion Ave. The planning authority has no record of permission being granted for such works and therefore same should be regularised.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER *AR*

Date:

4th May 2023

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

Reference No.: R23-25



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-25

Can the kerb to our property be lowered in order for a vehicle to access the driveway of our property - Is planning permission required?

AND WHEREAS, Amy Logue & Oisin Kenneally 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) The definition of a road as set out in the Roads Act 1993, as amended,
- (c) The works as indicated in submitted documents received by the Planning Authority on 13th April 2023.

And whereas Clare County Council has concluded:

- (a) The provision of a dropped kerb would involve works to the public road based on the definition of a road as set out in the Roads Act 1993, as amended,
- (b) The responsibility for the maintenance of a public road lies with the Local Authority,
- (c) Under Section 4 (e) of the Planning & Development 2000, as amended, the carrying out of maintenance or improvements works by a Local Authority constitutes exempted development,
- (d) Under Section 4 (f) of the Planning & Development 2000, as amended, development carried out on behalf of, or jointly or in partnership with, a local authority, pursuant to a contract entered into by the local authority concerned, whether in its capacity as a planning authority or in any other capacity, constitutes exempted development.

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 a dropped kerb at 40 Marion Avenue, Ennis, County Clare would only constitute exempted development where such works are carried out by the Local Authority or jointly or in partnership with, a local authority as per Sections 4 (e) and 4 (f) of the Planning & Development Act, 2000, as amended, and associated regulations.

Advice Note to Applicant:

The applicant is advised that the proposed works would require the consent of the Local Authority and the benefit of a road opening license. An application for a road opening license may be made at www.rmo.ie and applicants are advised to discuss same with the Ennis MD office.

On the date of the site inspection, it was observed that works had been carried out to the front boundary wall of number 40 Marion Ave. The planning authority has no record of permission being granted for such works and therefore same should be regularised.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

4th May 2023

**CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT**

FILE REF:	R23 25
APPLICANT(S):	Amy Logue & Oisin Kenneally
REFERENCE:	Whether the construction of a dropped kerb in order for a vehicle to access a driveway at No. 40 Marian Ave., Ennis, County Clare is or is not development and is or is not exempted development.
LOCATION:	No. 40 Marian Ave., Ennis, County Clare
DUE DATE:	Fri 5 th May 2023

Site Location

The existing dwelling, which comprises of a two story, terrace dwelling, is located within the residential development of Marian Avenue, Ennis. The dwelling is located on the eastern side of Marian Avenue, which is a narrow road, the width of which does not exceed 5m. parking takes place on both sides of this road, leaving access through same somewhat restricted.

Recent Planning History

Onsite

none.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Amy Logue and Oisin Kenneally. The applicant's legal interest in the site is stated as owner / occupier of the property.

The applicant is seeking a Section 5 Declaration in relation to the provision of a dropped kerb between the access road and the front path in front of their house, so as to facilitate vehicular access into their driveway at No. 40 Marian Avenue, Ennis, 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.

Section 2 also defines a "public road" as having the same meaning as in the Roads Act, 1993;

'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.

Exempted Development

4. —(1) *The following shall be exempted developments for the purposes of this Act—*

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

5. - (7) *A planning authority, before making a declaration under this section, shall consider the record forwarded to it in accordance with subsection (6)(c).*

The Roads Act 1993

"public road" means a road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority;

"road" includes—

- (a) any street, lane, footpath, square, court, alley or passage,
- (b) any bridge, viaduct, underpass, subway, tunnel, overpass, overbridge, flyover, carriageway (whether single or multiple), pavement or footway,
- (c) any weighbridge or other facility for the weighing or inspection of vehicles, toll plaza or other facility for the collection of tolls, service area, emergency telephone, first aid post, culvert, arch, gully, railing, fence, wall, barrier, guardrail, margin, kerb, lay-by, hard shoulder, island, pedestrian refuge, median, central reserve, channelliser, roundabout, gantry, pole, ramp, bollard, pipe, wire, cable, sign, signal or lighting forming part of the road, and
- (d) any other structure or thing forming part of the road and—
 - (i) necessary for the safety, convenience or amenity of road users or for the construction, maintenance, operation or management of the road or for the protection of the environment, or
 - (ii) prescribed by the Minister;

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.

No such classes refer specifically to the installation / change of size of a window in the existing part of a building.

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

The applicants are questioning whether the provision of a drop kerb at the vehicular entrance to their property along Marian Avenue.

Planning Exemption Assessment

Planning and Development Act 2000 (as amended) Section 4

4.—(1) The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

I would not consider this section of the Act relevant, as the proposed works are to be carried out to the public road.

- 5 (7) A planning authority, before making a declaration under this section, shall consider the record forwarded to it in accordance with *subsection (6)(c)*. **I have carried out a review of ABP website and there is no other development of a similar nature to that as proposed under the subject declaration.**

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. **I would consider this section applicable. From my inspection of the site, I noted that a vehicular entrance to the curtilage of the applicant's dwelling has been constructed. There is no record of planning permission having been obtained in relation to same.**
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users. **As noted above, it would appear that an increase in the width of the driveway has been developed. Such works result in a corresponding reduction in the space available for on-street car parking. Such a reduction may result in a traffic hazard.**
 - (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft, **Not applicable in this instance.**
- (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. **It is considered that same does not interfere with the character of the landscape or views in the area.**
- (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. **This is not applicable in this instance.**
 - 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. **These are 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. **This is not applicable in this instance.**
- (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.**

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 7 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

The proposed development is located within an established residential area and comprises of a domestic extension, and associated site development works. The property is connected to the public sewer and surface water is attenuated on-site.

Having regard to:

- the small scale and domestic nature of the development,
- the location of the development in a urban area,
- the consequent absence of a pathway to the European site,

Note:

Agree with the above assessment.

I consider that the Order should be reworded as follows:

The following question has been referred to the Planning Authority:

Whether the provision of a dropped kerb at No. 40 Marion Avenue, Ennis, County Clare 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) The definition of a road as set out in the Roads Act 1993, as amended,
- (c) The works as indicated in submitted documents received by the Planning Authority on 13th April 2023.

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

- (a) The provision of a dropped kerb would involve works to the public road based on the definition of a road as set out in the Roads Act 1993, as amended,
- (b) The responsibility for the maintenance of a public road lies with the Local Authority,
- (c) Under Section 4 (e) of the Planning & Development 2000, as amended, the carrying out of maintenance or improvements works by a Local Authority constitutes exempted development;
- (d) Under Section 4 (f) of the Planning & Development 2000, as amended, development carried out on behalf of, or jointly or in partnership with, a local authority, pursuant to a contract entered into by the local authority concerned, whether in its capacity as a planning authority or in any other capacity, constitutes exempted development.

Now Therefore Clare County Council (Planning Authority) hereby determines:

The provision of a dropped kerb at 40 Marion Avenue, Ennis, County Clare would only constitute exempted development where such works are carried out by the Local Authority or jointly or in partnership with, a local authority as per Sections 4 (e) and 4 (f) of the Planning & Development Act, 2000, as amended.

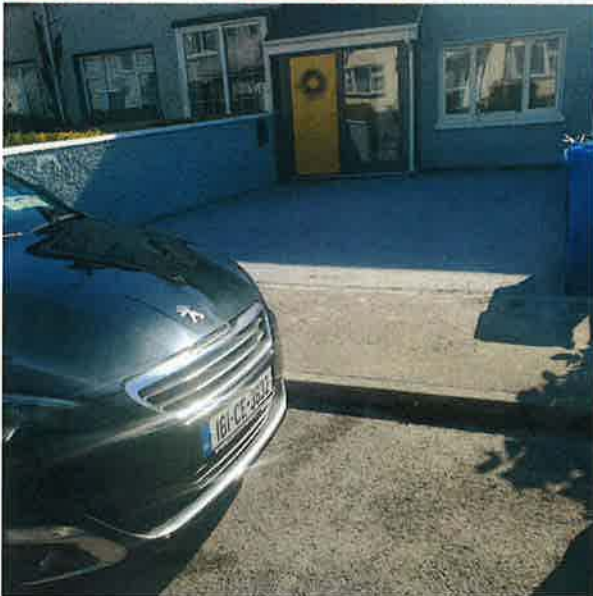
Advice Note to Applicant:

The applicant is advised that the proposed works would require the consent of the Local Authority and the benefit of a road opening license. An application for a road opening license may be made at www.rmo.ie and applicants are advised to discuss same with the Ennis MD office.

On the date of the site inspection, it was observed that works had been carried out to the front boundary wall of number 40 Marion Ave. The planning authority has no record of permission being granted for such works and therefore same should be regularised.


Garreth Ruane
Senior Executive Planner







COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Amy Logue & Oisin Kenneally
c/o Avrill Collentine
William Cahir & Associates
36 Abbey St
Lifford
Ennis
Co. Clare

13/04/2023

Section 5 referral Reference R23-25 – Amy Logue & Oisin Kenneally

Can the kerb to our property be lowered in order for a vehicle to access the driveway of our property - Is planning permission required?

A Chara,

I refer to your application received on 13th April 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 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



COMHAIRLE

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

CONTAE

13/04/2023 10:27:10

AN CHLAIR

Receipt No. : L1CASH/0/347942
***** REPRINT *****

AMY LOGUE & OISIN KENNEALLY
C/O AVRILL COLLENTINE
36 ABBEY STREET
LIFFORD
ENNIS
CO. CLARE
R23-25

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

Total : 80.00 EUR

Tendered :
Cash 80.00

COMHAIRLE

Change : 0.00

CONTAE

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

R23-25



**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	Amy Logue & Páisin Kenneally, 40 Marion Avenue, Ennis, Co. Clare.
(b) Telephone No.:	---
(c) Email Address:	---
(d) Agent's Name and address:	Avril Collettine William Cahill & Associates, 36 Abbey St Lifford, Ennis Co. Clare.



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?

Can the herb to our property be lowered in order for a vehicle to access the driveway of our property - is planning permission required?

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

We ~~are~~ are aware that in past circumstances, herbs were lowered to allow access by the council themselves & not by a third party. We wish to enquire if we ought to seek permission by Clare County Council to hire a professional third party to carry out the works required. In the estate of Marian Avenue, many properties have lowered footpaths, however we are not aware of any performed recently enough to seek advice from a neighbour. We wish to seek information on the necessary steps to be taken, if any.

- (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 map included. Please note, the ownership of the property has since changed to ourselves. Proof can be provided by solicitor.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT

(a) Postal Address of the Property/Site/Building for which the declaration sought:	40 Marian Avenue, Ennis, 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?	N/A.
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	N/A
(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>	See question 2 (c)
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	N/A.
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	No.
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	No.
(h) Date on which 'works' in question were completed/are likely to take place:	June 2023.

SIGNED:



DATE: 5/3/2023

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:	



The Property Registration Authority
An tÚdarás Clárúcháin Maoine

Land Registry Sealed and Certified Copy Folio (& Filed Plan)

KERIN HICKMAN & O'DONNELL SOLICITORS
DX 25002
ENNIS

This page forms part of the official document. Do not detach.

Folio Number: CE9593F
Application Number: P2021LR081198Q
Your Reference: RJH C 0927 KEW 002



This document comprises an office copy of the Land Registry record for the above mentioned folio/filed plan as of the date appearing.

Details of **dealings pending** (if any) on the enclosed folio/filed plan are listed in the **Schedule** below.


An officer duly authorised by the Property Registration Authority.

Schedule



Notes:

1. Filed plans should be read in conjunction with the Register. The description of the land in the Register or on the filed plan is not conclusive as to the boundaries or extent of the land (see Section 85 of the Registration of Title Act 1964, as substituted by Section 62 of the Registration of Deeds and Title Act, 2006).
2. Filed plans greater than A3 in size may be provided as separate A3 tiles with an overlap and print gutter. When aligning the tiled sheets, customers are advised to use the underlying topographical detail.
3. On receipt of this record, please check to verify that all the details contained therein are correct. If this is not the case, please return the document to the Property Registration Authority immediately.



Folio Number: CE9593F
Date Printed: 04/08/2021

Application Number: P2021LR081198Q
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Land Registry

County Clare

Folio 9593F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

For parts transferred see Part 1(B)

No.	Description	Official Notes
1	<p>The property shown coloured RED as Plan(s) 18B on the Registry Map, situate in the Townland of LIFFORD, in the Barony of ISLANDS.</p> <p>The registration does not extend to the mines and minerals.</p>	<p>From Instrument No. N3583/83</p>

Land Cert Issued: No

Page 1 of 4

Collection No.:

Date Printed: 04/08/2021

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Land Registry**County Clare****Folio 9593F****Part 1(B) - Property
Parts Transferred**

No.	Prop No:	Instrument:	Date:	Area (Hectares) :	Plan:	Folio No:

Land Registry

County Clare

Folio 9593F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	<div data-bbox="220 712 391 772">18-JUL-1983 N3583/82</div> <div data-bbox="459 712 1332 772">KATHLEEN FRANCIS KELLY of 40, MARIAN AVENUE, ENNIS, COUNTY CLARE is full owner.</div>

Land Registry**County Clare****Folio 9593F****Part 3 - Burdens and Notices of Burdens**

No.	Particulars
1	The property is subject to the provisions specified in Section 90(6) of the Housing Act 1966 against alienation, mortgaging and charging without the consent of Ennis Urban District Council for a period of 25 years from 15th May 1967 and to the conditions specified in Instrument No. N3583/83.
2	<div data-bbox="231 846 399 907">18-JUL-1983 N3583/83</div> <div data-bbox="491 846 1388 929">Charge for £1,350 created by Instrument No. N3583/83. THE URBAN DISTRICT COUNCIL OF ENNIS is owner of this charge.</div>

The Property
Registration Authority
An tÚdarás
Clárúcháin Maoine



Folio: CE9593F

This map should be read in conjunction with the folio.

Registry maps are based on OSi topographic mapping. Where registry maps are printed at a scale that is larger than the OSi published scale, accuracy is limited to that of the original OSi map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.prai.ie.

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(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold

Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- ▽ Soak Pit

A full list of burdens and their symbology can be found at: www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.

