



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Bríd Meaney
6 Stewart Street
Kilrush
Co. Clare**

26th June 2023

Section 5 referral Reference R23-37 – Bríd Meaney

Is the installation of two toilets in the present sheds development and if so is it exempted development?

A Chara,

I refer to your application received on 30th May 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 Stiúrthóireacht Forbairt Gheilleagrach**
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department
Economic Development Directorate**
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



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

Reference No.: R23-37



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-37

Is the installation of two toilets in the present sheds development and if so is it exempted development?

AND WHEREAS, Bríd Meaney 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, 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (c) Schedule 2 Part 1, Class 14 of the Planning and Development Regulations 2001, as amended,
- (d) Part 4 Exempted development – Classes of Use - Class 2 and Class 3 of the Planning and Development Regulations 2001, as amended,
- (e) The works as indicated in submitted documents from the referrer on 30th May 2022.

And whereas Clare County Council has concluded:

- (a) The change of use of existing sheds to office use and the installation of 2 toilets in these sheds at 6A Stewart Street, Kilrush, 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 change of use of existing sheds to office use and the installation of 2 toilets in these sheds at 6A Stewart Street, Kilrush, County Clare is not exempted development having regard to Schedule 2 Part 1, Class 14 and Part 4 Exempted development – Classes of Use - Class 2 and Class 3 of the Planning and Development Regulations 2001, as amended, and Section 4(1)(h) of the Planning and Development Act, 2000, as amended, as the use of the existing sheds does not come within the aforementioned Class 2 and Class 3, there are no exempted development provisions within Schedule 2, Part 1, Class 14 of the Planning and Development Regulations 2001, as amended, for change of use from sheds to offices, and the installation of toilet facilities and the external alteration of the sheds to facilitate office use would contravene Section 4(1)(h) of the Planning and Development Act, 2000, as amended, as they same materially affect

the external appearance of the structure so as to render the appearance inconsistent with the character of the structure.

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 change of use of existing sheds to office use and the installation of two toilets in these sheds at 6A Stewart Street, Kilrush, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

26th June 2023

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: 81970

Reference Number: R23-37

Date Referral Received: 30th May 2023

Name of Applicant: Bríd Meaney

Location of works in question: 6A Stewart Street, Kilrush, Co. Clare

Section 5 referral Reference R23-37 – Bríd Meaney

Is the installation of two toilets in the present sheds 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, 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (c) Schedule 2 Part 1, Class 14 of the Planning and Development Regulations 2001, as amended,
- (d) Part 4 Exempted development – Classes of Use - Class 2 and Class 3 of the Planning and Development Regulations 2001, as amended,
- (e) The works as indicated in submitted documents from the referrer on 30th May 2022.

AND WHEREAS Clare County Council has concluded:

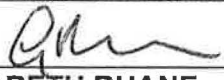
- (a) The change of use of existing sheds to office use and the installation of 2 toilets in these sheds at 6A Stewart Street, Kilrush, County Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended;
- (c) The said development comprising of change of use of existing sheds to office use and the installation of 2 toilets in these sheds at 6A Stewart Street, Kilrush, County Clare is not exempted development having regard to Schedule 2 Part 1, Class 14 and Part 4 Exempted development – Classes of Use - Class 2 and Class 3 of the Planning and Development Regulations 2001, as amended, and Section 4(1)(h) of the Planning and Development Act, 2000, as amended, as the use of the existing sheds does not come within the aforementioned Class 2 and Class 3, there are no exempted development provisions within Schedule 2, Part 1, Class 14 of the Planning and Development Regulations 2001, as amended, for change of use from sheds to offices, and the installation of toilet facilities and the external alteration of the sheds to facilitate office use would contravene Section 4(1)(h) of the Planning and Development Act, 2000, as amended, as they same materially affect

the external appearance of the structure so as to render the appearance inconsistent with the character of the structure.

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 change of use of existing sheds to office use and the installation of two toilets in these sheds at 6A Stewart Street, Kilrush, Co. Clare is considered development which is not exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER *A=6*

Date:

26th June 2023

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R23-37
APPLICANT(S):	Bríd Meaney
REFERENCE:	Whether the change of use of existing sheds to office use and the installation of 2 toilets in these sheds at 6A Stewart Street, Kilrush, County Clare is or is not development and is or is not exempted development.
LOCATION:	6A Stewart Street, Kilrush, County Clare
DUE DATE:	26 th June 2023

Site Location

The site is located in the town of Kilrush and is to the east of Stewart Street. It is to the north of Kilrush Fire Station and accommodates a yard area to the south of a semi-detached 2 storey dwelling. The yard accommodates existing sheds and the site boundaries comprise of high walls. The site has vehicular access onto Stewart Street. The site is zoned "*Existing Residential*" in the Clare County Development Plan 2023-2029 and is adjacent to the Kilrush "*Architectural Conservation Area*". Views towards the site are limited to views from the Stewart Street access when same is open. I inspected the site on the 21st June 2023.

Recent Onsite Planning History

None.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Bríd Meaney who is the stated owner of the site and the adjacent dwelling. The applicant is seeking a Section 5 Declaration as to whether the change of use of existing sheds to office use and the installation of 2 toilets in these sheds at 6A Stewart Street, Kilrush, 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 and Development Act 2000 (as amended) Section 4(1)(h)

The following shall be exempted developments for the purposes of this Act—

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;

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.

Part 2 Article 10(1)

Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

- a) involve the carrying out of any works other than works which are exempted development,*
- b) contravene a condition attached to a permission under the Act,*
- c) be inconsistent with any use specified or included in such a permission, or*
- d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.*

Schedule 2 Part 1, Class 14

Development consisting of a change of use—

- (a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,*
- (aa) from use for the sale of food for consumption on the premises to use for the sale of food for consumption off the premises.*

Where a premises is used during the relevant period for the sale of food for consumption off the premises in accordance with Article 3, then, upon the expiration of the relevant period –

- a) the premises may be used for the sale of food for consumption on the premises in accordance with the permission that applied in respect of that premises immediately before the commencement of the relevant period, and*
- b) the use of the premises for the sale of food for consumption off the premises shall not be exempted development*
- (b) from use as a public house, to use as a shop,*
- (c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop,*
- (d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,*
- (e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,*
- (f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.*
- (g) from use as a hotel, to use as a hostel (other than a hostel where care is provided)*
- (h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph of the said premises or institution, or part thereof, to use as accommodation for protected persons,*

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

- (i) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons, and*
- (j) from the change of use specified in paragraph (h) or (i) or both, to the permitted use of the premises immediately prior to the change of use specified in the said paragraph (h) or (i) or both.*

Class 14(j) shall not apply after a period of 3 years from the date of the commencement of the change of use specified in Class 14(h) or (i) or both, whichever date is the earliest.

Part 4 Exempted development – Classes of Use

Class 2

Use for the provision of—

- a) financial services,*
- b) professional services (other than health or medical services),*
- c) any other services (including use as a betting office), where the services are provided principally to visiting members of the public.*

Class 3

Use as an office, other than a use to which class 2 of this Part of this Schedule applies

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,*
 - (iii)(a) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
 - (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

Planning Exemption Assessment

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.

The proposed toilets and the change of use from sheds to office use would constitute development.

'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.

The proposed toilets and the change of use from sheds to office use would constitute development.

Planning and Development Act 2000 (as amended) Section 4(1)(h)

The following shall be exempted developments for the purposes of this Act—

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;

The existing buildings comprise of agricultural style sheds. The works that would be required to same to facilitate their change of use to office use (including the inclusion of toilets) would materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the 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.

Part 2 Article 10(1)

Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

- a) involve the carrying out of any works other than works which are exempted development,*

The proposal would require the carrying out of works which are not exempted development.

b) contravene a condition attached to a permission under the Act,

Not applicable.

c) be inconsistent with any use specified or included in such a permission, or

Not applicable.

d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

Not applicable.

Schedule 2 Part 1, Class 14

Development consisting of a change of use—

(a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,

(bb) from use for the sale of food for consumption on the premises to use for the sale of food for consumption off the premises.

Where a premises is used during the relevant period for the sale of food for consumption off the premises in accordance with Article 3, then, upon the expiration of the relevant period –

a) the premises may be used for the sale of food for consumption on the premises in accordance with the permission that applied in respect of that premises immediately before the commencement of the relevant period, and

b) the use of the premises for the sale of food for consumption off the premises shall not be exempted development

(b) from use as a public house, to use as a shop,

(c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop,

(d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,

(e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,

(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

(g) from use as a hotel, to use as a hostel (other than a hostel where care is provided)

(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph of the said premises or institution, or part thereof, to use as accommodation for protected persons,

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

- (i) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons, and*
- (j) from the change of use specified in paragraph (h) or (i) or both, to the permitted use of the premises immediately prior to the change of use specified in the said paragraph (h) or (i) or both.*

Class 14(j) shall not apply after a period of 3 years from the date of the commencement of the change of use specified in Class 14(h) or (i) or both, whichever date is the earliest.

None of the above changes of use are applicable.

Part 4 Exempted development – Classes of Use

Class 2

Use for the provision of—

- a) financial services,*
- b) professional services (other than health or medical services),*
- c) any other services (including use as a betting office), where the services are provided principally to visiting members of the public.*

Class 3

Use as an office, other than a use to which class 2 of this Part of this Schedule applies

The existing sheds do not come within Class 2 or 3 above.

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:*

- (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*

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,

Not applicable.

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

Not applicable.

(iii)(a) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,

Not applicable.

(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.

Not applicable.

(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,

Not applicable.

(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,

Not applicable.

(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,

Not applicable.

(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.”

Not applicable.

(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,

Not applicable.

(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,

Not applicable.

(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,

Not applicable.

(xi) obstruct any public right of way,

Not applicable.

(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.

Not applicable.

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, 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (c) Schedule 2 Part 1, Class 14 of the Planning and Development Regulations 2001, as amended,
- (d) Part 4 Exempted development – Classes of Use - Class 2 and Class 3 of the Planning and Development Regulations 2001, as amended,
- (e) The works as indicated in submitted documents from the referrer on 30th May 2022.

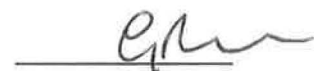
And whereas Clare County Council (Planning Authority) has concluded:

- (a) the change of use of existing sheds to office use and the installation of 2 toilets in these sheds at 6A Stewart Street, Kilrush, 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 change of use of existing sheds to office use and the installation of 2 toilets in these sheds at 6A Stewart Street, Kilrush, County Clare is not exempted development having regard to Schedule 2 Part 1, Class 14 and Part 4 Exempted development – Classes of Use - Class 2 and Class 3 of the Planning and Development Regulations 2001, as amended, and Section 4(1)(h) of the Planning and Development Act, 2000, as amended, as the use of the existing sheds does not come within the aforereferenced Class 2 and Class 3, there are no exempted development provisions within Schedule 2, Part 1, Class 14 of the Planning and Development Regulations 2001, as amended, for change of use from sheds to offices, and the installation of toilet facilities and the external alteration of the sheds to facilitate office use would contravene Section 4(1)(h) of the Planning and Development Act, 2000, as amended, as they same materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure.

Now therefore Clare County Council (Planning Authority), hereby decides that the change of use of existing sheds to office use and the installation of 2 toilets in these sheds at 6A Stewart Street, Kilrush, County Clare constitutes both works and development and is not exempted development.



A/Executive Planner
Date: 21st June 2023



Senior Executive Planner
Date: 23/06/23.

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

Table 21: Project Details	
Planning File Reference	R23-37
Applicant Name	Meaney
Development Location	Stewart Street Kilrush
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
the change of use of existing sheds to office use and the installation of 2 toilets in these sheds	

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

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

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

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Lower River Shannon SAC	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus</i>	1.5

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

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

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
	<p>excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Tursiops truncatus (Common Bottlenose Dolphin) [1349]</p> <p>Lutra lutra (Otter) [1355]</p>	
River Shannon and River Fergus Estuaries SPA	<p>Cormorant (Phalacrocorax carbo) [A017]</p> <p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Shoveler (Anas clypeata) [A056]</p> <p>Scaup (Aythya marila) [A062]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Lapwing (Vanellus vanellus) [A142]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Dunlin (Calidris alpina) [A149]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Bar-tailed Godwit (Limosa lapponica) [A157]</p> <p>Curlew (Numenius arquata) [A160]</p> <p>Redshank (Tringa totanus) [A162]</p> <p>Greenshank (Tringa nebularia) [A164]</p> <p>Black-headed Gull (Chroicocephalus ridibundus) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	1.5

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	No
2	Impacts on terrestrial habitats and species.	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	No
3	Impacts on designated marine habitats and species.	<i>Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	No
4	Impacts on birds in SPAs	<i>Is the development within 1km of a Special Protection Area</i>	No
5	Indirect effects	<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	
Planning File Reference	R23-37
Proposed Development	the change of use of existing sheds to office use and the installation of 2 toilets in these sheds
Development Location	Kilrush
European sites within impact zone	As per report
Description of the project	
the change of use of existing sheds to office use and the installation of 2 toilets in these sheds	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
No impacts envisaged.	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
minor nature of works, distance from designation and no direct hydrological link	
Documentation reviewed for making this statement	
NPWS website Plans and particulars received GIS mapping database	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s)³	
(b) There is no potential for significant effects to European Sites³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out⁴	

³ 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.

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

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

(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	
Completed By	John O'Sullivan
Date	21 st June 2023

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







COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Bríd Meaney
6 Stewart Street
Kilrush
Co. Clare

30/05/2023

Section 5 referral Reference R23-37 – Bríd Meaney

Is the installation of two toilets in the present sheds development and if so is it exempted development?

A Chara,

I refer to your application received on 30th May 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



R23-37

P07 Request for a Declaration on Development and Exempted Development (March 2017)

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



Comhairle Contae an Chláir
 Clare County Council

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

FEE: €80

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

1. CORRESPONDENCE DETAILS.

(a) Name and Address of person seeking the declaration	Brid Meaney 6 Stewart Street Kilrush Co Clare
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	N/A

2. DETAILS REGARDING DECLARATION BEING SOUGHT

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT

Note: only works listed and described under this section will be assessed.

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

Would I be exempt from planning to install two toilets in present Sheds.

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

I wish to Convert old Sheds in photos to my office space and install two toilets.

My house is to the left as in picture 1 adjoining yard.

(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)

Please find attached Land Registry Compliant Map.
Also enclosed picture of my yard.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	yard . 64 Steward St Kilrush 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):	NO
(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)?:	NO
(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:	Within Next Four Months

SIGNED:



DATE: 26/5/2023

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:.....			

(Picture 1)

From: Brid Meaney
Subject: Yard
Date: 25 May 2023 at 15:08
To: Brid Meaney

From my house to yard area.



(Picture 2)

From: Brid Meaney
Subject: Sheds
Date: 25 May 2023 at 15:03
To: Brid Meaney



Land Registry Compliant Map



National Mapping Agency

CENTRE COORDINATES:
ITM 499732,655024

PUBLISHED: 15/07/2022 **ORDER NO.:** 50280409_1

MAP SERIES: 1:1,000 **MAP SHEETS:** 4725-20

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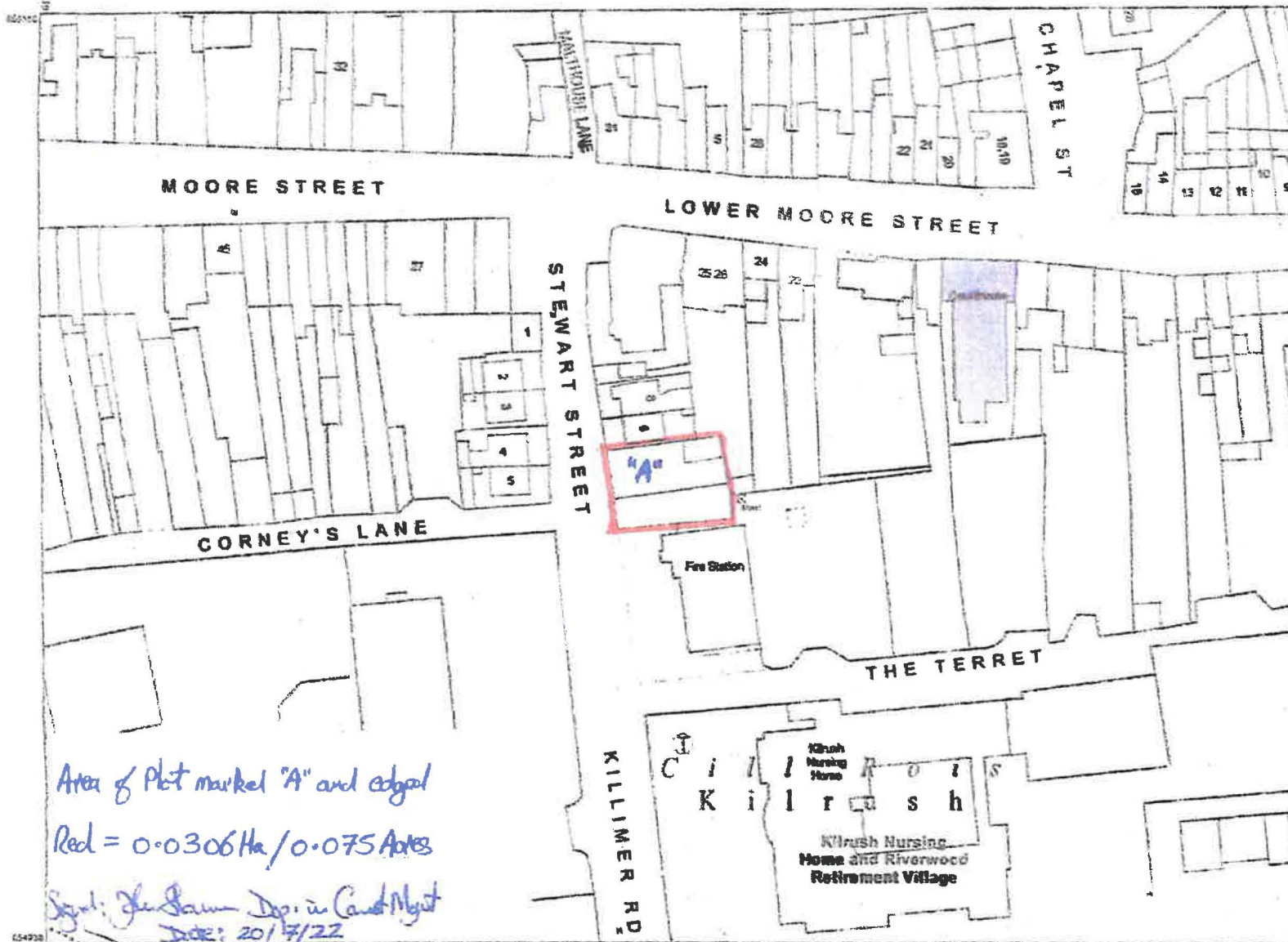
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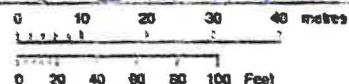
<http://www.osi.ie>
search 'Large Scale Legend'



Area of Plot marked "A" and edged

Red = 0.0306 Ha / 0.075 Acres

Signed: John Sweeney Dip. in Land Mgmt
Date: 20/7/22



OUTPUT SCALE: 1:1,000

CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were produced.
Output scale is not indicative of data capture scale.
Further information is available at
<http://www.osi.ie/technical/Capture-Resolution>



* 2 copies of each

Brian Fahy

From: Paula Blake
Sent: Tuesday 30 May 2023 11:12
To: Brian Fahy
Subject: RE: Section 5 Declaration payment for Brid Meaney

25/05/2023

Receipt No. : BANKS/809648/1526320

B MEANEY - LORRAINE MEANEY

PLANNING FEES 80.00
GOODS 80.00
VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :
IMPORT BANK REC ONLY 80.00

Change : 0.00

Issued By : BANKS - Paula Blake
From : AIB External Payments Paypoint Lodgement Area
Vat reg No.0033043E

Regards,
Paula

From: Brian Fahy <bfahy@clarecoco.ie>
Sent: Tuesday, May 30, 2023 10:34 AM
To: Paula Blake <pblake@clarecoco.ie>
Subject: Section 5 Declaration payment for Brid Meaney

Hi Paula,

I have received a section 5 application in the post today and they have advised me they have paid the €80 fee by EFT on the 25th of May.

The applicant's name is Brid Meaney. I think they may have quoted CH016 on the payee message. Could you please confirm that we have received the payment? Thanks.

Kind Regards,

Brian Fahy

Clerical Officer

Planning Department

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

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

LOCAL AUTHORITY OF THE YEAR 2022



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL



Chambers
Ireland
Local Government
AWARDS 2022
WINNER