



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Philip McNeill
27 The Maples
Monkstown
Co. Dublin**

26th June 2023

Section 5 referral Reference R23-38 – Philip McNeill

Is the restoration / refurbishment of the existing cottage at Tullagower, Cooraclare, Co. Clare 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 Stiúthóireacht Forbairt Gheilleagrach**
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

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



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

Reference No.: R23-38



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-38

Is the restoration / refurbishment of the existing cottage at Tullagower, Cooraclare, Co. Clare development and if so is it exempted development?

AND WHEREAS, Philip McNeill has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

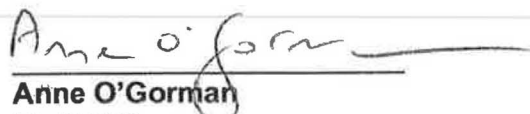
- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) The works as indicated in submitted documents from the referrer on 30th May 2023.

And whereas Clare County Council has concluded:

- (a) The restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, 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 of the restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, County Clare, is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

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 restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, Co. Clare constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Arne 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: 81971

Reference Number: R23-38

Date Referral Received: 30th May 2023

Name of Applicant: Philip McNeill

Location of works in question: Tullagower, Cooraclare, Co. Clare

Section 5 referral Reference R23-38 – Philip McNeill

Is the restoration / refurbishment of the existing cottage at Tullagower, Cooraclare, Co. Clare development and if so is it exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) The works as indicated in submitted documents from the referrer on 30th May 2023.

AND WHEREAS Clare County Council has concluded:

- (a) The restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, 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 of the restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, County Clare, is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

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 restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, Co. Clare is considered development which is exempted development.

Signed:


GARETH RUANE
SENIOR EXECUTIVE PLANNER



Date:

26th June 2023

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT 1

| | |
|----------------------|---|
| FILE REF: | R23-38 |
| APPLICANT(S): | Philip McNeill |
| REFERENCE: | Whether the restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, County Clare, is not development and is or is not exempted development. |
| LOCATION: | Tullagower, Cooraclare, County Clare |
| DUE DATE: | 26 th June 2023 |

Site Location

The proposal site is located in a rural area that is approximately 0.45km north east of Tullagower Quarry. It is to the south of the LS6132 local secondary road. It is to the west of 2 adjacent dwellings which front onto the public road. It is a well screened site which accommodates an existing single storey vacant cottage and a detached outbuilding. The views towards the site are local range views. The site is located within a "*Settled Landscape*" as per the Clare County Development Plan 2023-2029. It is also located within a Freshwater Pearl Mussel Catchment Area.

Recent Onsite Planning History

99-1962 – Granted - Philip McNeill - to rebuild cottage in new site location and build a new family cottage and provide a new septic tank for each.

00-2420 – Granted - Philip McNeill - modify already approved planning permission to reposition and change dwelling type and permission for additional dwelling house with septic tank.

04-1392 – Granted - Philip McNeill - for a change in elevations and internal layout and reposition of houses on site of already approved planning permission for two new houses ref. P99/1962 and P00/242.

04-2062 – Incomplete application.

04-2233 – Granted - Philip McNeill - The development consists of a change in elevations and internal layout and reposition of one house on site of already approved planning permission Ref. P99-1962, P00-2420 and P04-1392 and restoration of existing cottage to include additional floor space in attic of raised roof with a new Bord Na Mona Platinum Mini waste water plant or similar approved.

05-2019 – Granted - Philip McNeill - for changes to already approved development. The development consists of changes to layout of a site boundary to already approved development Ref. P04-1392 and P04-2233.

06-1710 – Refused – Philip McNeill - for the demolition of existing cottage and relocation of use to refurbished and extended shed for domestic use.

07-2176 – Granted - Philip McNeill - for development which will consist of a change of elevation designs and to reconstruct the front, west gable and rear wall and to reduce house size to 124 sq. metres of already approved planning permission ref. P04-2233.

12-350 – Granted - Philip McNeill - to Extend the Appropriate Period of Planning Permission P07/2176 for residential alterations and additions.

19-547 – Granted - Philip McNeil - for development which consists of the demolition of existing substandard cottage to allow for the construction of a new replacement house with a new waste water treatment system and the refurbishment of the existing access to site and all associated site works.

R11-11 – Whether the restoration of existing cottage and the construction of a 40sqm rear extension to cottage at Tullagower, Cooraclare, County Clare requires the benefit of planning permission or not. The applicant was advised that the works as proposed in the Section 5 referral constituted development and was considered to be exempted development.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Philip McNeill who states that he is seeking a Section 5 Declaration as to whether the restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, County Clare, is not development and is or is not exempted development. The applicant is the stated owner of the site. The floor plan received indicates that the existing cottage was and would remain a 3 bedroom cottage.

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.

Section 2(1) – Interpretation

In this Act, except where the context otherwise requires –

- *“habitable house” means a house which—*

- (a) is used as a dwelling,*

- (b) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or*

- (c) was provided for use as a dwelling but has not been occupied;*

“house” means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

“structure” as any building, structure, excavation or other thing constructed or made on, in or under any land, or part of a structure so defined, and where the context so admits, includes the land on, in or under which the structure is situate

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon.

Section 4(1)

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

- (h) development consisting of the use 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 and Development Regulations, 2001 (as amended)

Article 6(1)

Subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 2.

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

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, County Clare, is not development and is or is not exempted development.

Particulars of Proposal

The site accommodates a vacant single storey cottage and a detached shed to the side. Whilst it appears in good structural condition, and the roof remains intact, the majority of the windows and doors have either been removed or are no longer in place. The restoration drawings demonstrate that the cottage building would be returned to a 3 bedroom residential unit. No alterations to the existing dwelling in terms of extensions etc are proposed.

Planning Status

It is unclear how long the cottage has been vacant. However, based on the onsite planning history, it is clear that the applicant had intent to resume the residential use of the site since 1999. Whilst the cottage is not currently in use, based on the available information, when it was last used, it was as a dwelling. In addition, I consider that the dwelling is not in ruinous condition.

I note that the Planner's Report associated with Section 5 Referral R11-11 deemed that the existing building constituted a "habitable house" as per Section 3 of the Act. In this regard, I further note that from examination of the site inspection photographs associated with this previous referral that the condition of the cottage building is not materially different than it was on the date of my site inspection (i.e. 21st June 2023). For the previous referral the Planning Authority deemed that the restoration and extension of the existing cottage constituted development that was exempted development.

The restoration of the existing cottage constitutes the maintenance and improvement of the existing structure and would 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. Therefore, in accordance with Section 4(1)(h) of the Act the proposed works are exempted development.

Recommendation

The following question has been referred to the Planning Authority:

Whether the restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, County Clare, is not development and is or is not exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) The works as indicated in submitted documents from the referrer on 30th May 2023.

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

- (a) the restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, 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 of the restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, County Clare, is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

Now therefore Clare County Council (Planning Authority) hereby decides that the restoration/refurbishment of an existing cottage at Tullagower, Cooraclare, County Clare, is development and is 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


| | |
|---|----------------------------------|
| Planning File Reference | R23-38 |
| Applicant Name | McNeill |
| Development Location | Tullagower, Cooraclare, Co Clare |
| Application accompanied by an EIS | No |
| Application accompanied by an NIS | No |
| Description of the project (To include a site location map): | |
| Cottage renovation | |
|  | |

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 (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachium vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Margaritifera margaritifera (Freshwater Pearl | 7 |

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) |
|--|--|---------------------------------|
| | Mussel) [1029] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355] | |
| River Shannon and River Fergus Estuaries SPA | Cormorant (Phalacrocorax carbo) [A017] Whooper Swan (Cygnus cygnus) [A038] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Wigeon (Anas penelope) [A050] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054] Shoveler (Anas clypeata) [A056] Scaup (Aythya marila) [A062] Ringed Plover (Charadrius hiaticula) [A137] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Lapwing (Vanellus vanellus) [A142] Knot (Calidris canutus) [A143] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Greenshank (Tringa nebularia) [A164] Black-headed Gull (Chroicocephalus ridibundus) [A179] Wetland and Waterbirds [A999] | 7 |

| | | | |
|---|---|--|----------------------|
| 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 impacts envisaged |

| Appropriate Assessment Screening Determination | |
|---|---------------------|
| Planning File Reference | R23-38 |
| Proposed Development | Cottage restoration |
| Development Location | Tullagower |
| European sites within impact zone | As per report |
| Description of the project | |
| Cottage restoration | |
| 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). | |
| General disturbance | |
| If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not? | |
| Significant distance from the site, | |
| 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 | No |
| (b) There is no potential for significant effects to European Sites ³ | Yes |
| (c) The potential for significant effects to European Site(s) cannot be ruled out ⁴ | No |
| (d) Significant effects to European | No |

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.

| | |
|---|----------------------------|
| <p>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</p> | |
| 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
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Philip McNeill
27 The Maples
Monkstown
Co. Dublin

31/05/2023

Section 5 referral Reference R23-38 – Philip McNeill

Is the restoration / refurbishment of the existing cottage at Tullagower, Cooraclare, Co. Clare development and if so 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



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

31/05/2023 11:16:22

Receipt No. L1CASH/0/349971
***** REPRINT *****

PHILIP MCNEILL
27 THE MAPLES
MONKSTOWN, CO DUBLIN
REF. R23-38

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

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change : 0.00

P07

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

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

Telephone No. (065) 6821616
 Fax No. (065) 6892071
 Email: planoff@clarecoco.ie
 Website: www.clarecoco.ie

R23-38



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 | Philip McNeill 27 The Maples, Monkstown, County Dublin |
| (b) Telephone No.: | |
| (c) Email Address: | |
| (d) Agent's Name and address: | Architect Philip McNeill FRIAI 27 The Maples, Monkstown, County Dublin |



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?

Weather the restoration/refurbishment of the existing cottage at

Tullagower, Curraclare, County Clare requires planning permission or not.

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

The above question is asked for the purposes of making an application for the Vacent Property Grant of €70,000 structural refurbishment of existing cottage for which a Section 5 is required.

- (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)

Rural Place Map, Site and Cottage Plan, Current Aerial view Jan 2019. OS Map 19Jan19

| 3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT | |
|---|---|
| (a) Postal Address of the Property/Site/Building for which the declaration sought: | Tullagower, Cooraclare, County 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 Philip McNeill _____ 27 The Maples, Monkstown, County Dublin _____ |
| (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> | NA _____ _____ _____ |
| (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> | NO |
| (g) Were there previous planning application/s on this site? <i>If so please supply details:</i> | P991962, P00/2420, P04/1392, P04/2233, P05/2019, P07/2176 and P19/547 |
| (h) Date on which 'works' in question were completed/are likely to take place: | No works carried out until Vacant Property Grant obtained |

SIGNED: Philip McNeillDATE: 30 May 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

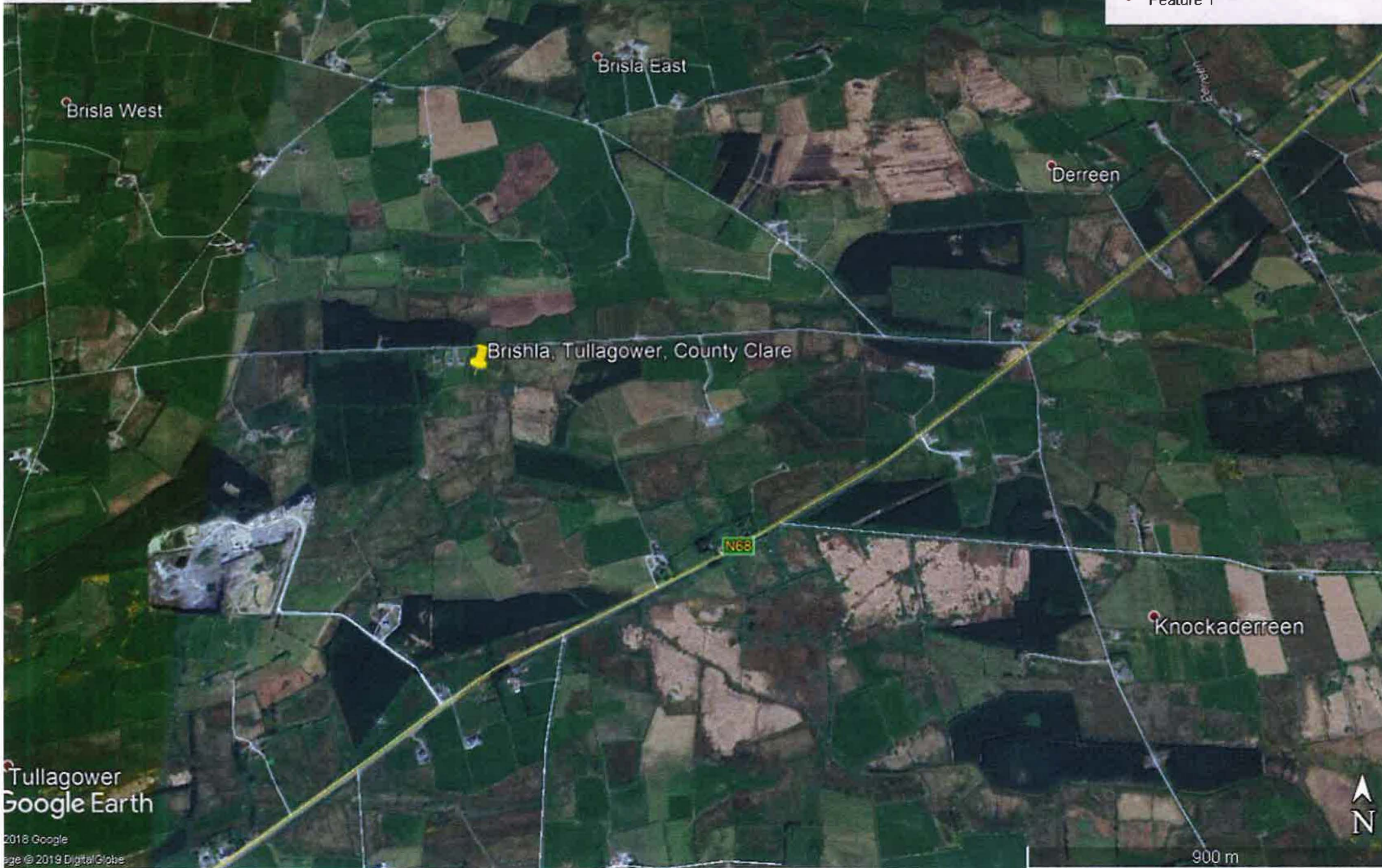
| | |
|------------------------------|----------------------|
| Date Received: | Fee Paid: |
| Date Acknowledged: | Reference No.: |
| Date Declaration made: | CEO No.: |
| Decision: | |

Untitled Map

Write a description for your map.

Legend

- Brishla, Tullagower, County Clare
- Feature 1



Tullagower
Google Earth

© 2018 Google
Image © 2019 DigitalGlobe

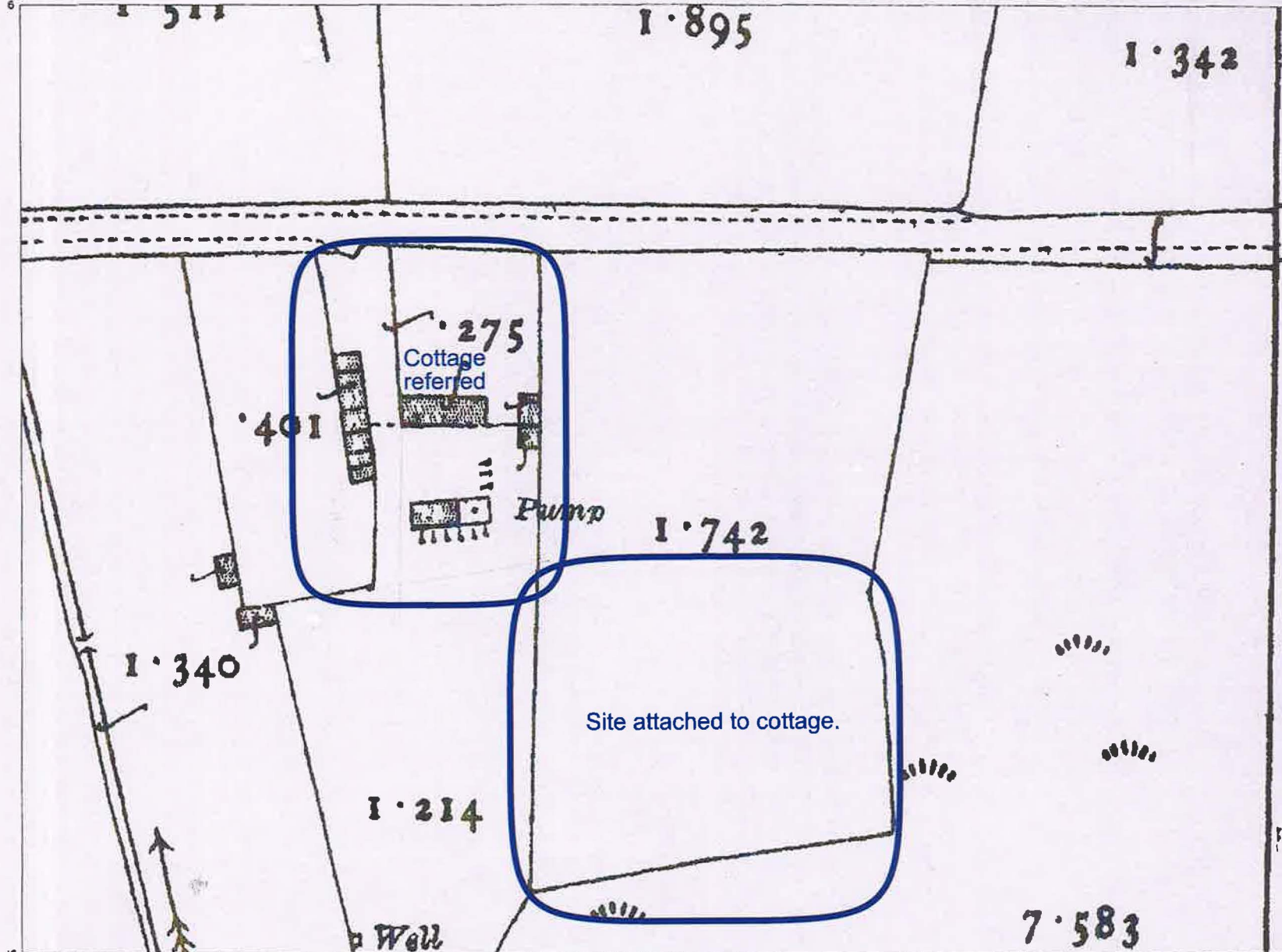
Surveyed 1896
Revised 1917
Levelled 1895

Rural PLACE Map



105653

105683



DESCRIPTION

MAP SCALES

25inch
CE057-08 CE058-05



Suirbhíreacht Ordánais Éireann, Fáirc an
Phlionsaice, Baile Átha Cliath a thionsaigh,
a chéile agus a d'fhóilligh.

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Survey Ireland, 100, Whitehall, Dublin.

Ní áirítear bódhar, bíalach nó coimeádáil bhéith ar an
mapa seo. Ní áirítear ar chuid de
na réadaíochtaí a bhaineann le rannscrúdú
a foithiú nó a chosaint ón Stáitíreacht
Órdánais Éireann.

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Scale:- 1:1000
Scála:- 1:1000

50 40 30 20 10 0 50 Metres
100 50 0 100 Feet

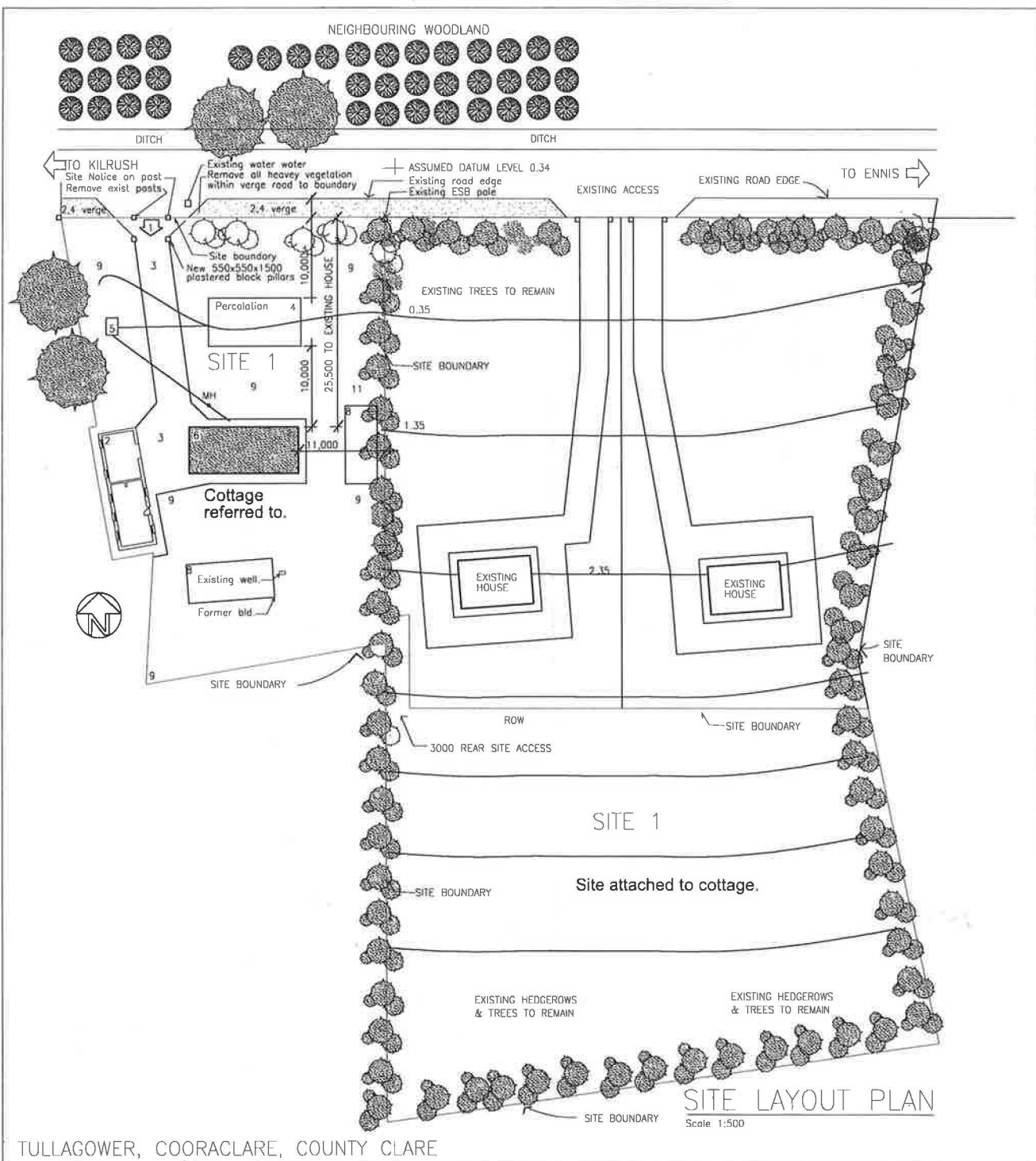
Plot Ref. No. 164848_1_4
Plot Date 07-MAR-2001

105653

105683

159606

- SITE PLAN**
- 1 EXISTING SITE ENTRANCE
 - 2 REFURBISHED SHED
 - 3 ACCESS ROAD
 - 4 PERCOLATION AREA
 - 5 SEPTIC TANK
 - 6 RESTORE/REFURBISH EXISTING SPARE
 - 7 REMOVE OLD STRUCTURE
 - 8 GRASS & LANDSCAPING
- SITE LEGEND**
- NEW HOUSE
- EXISTING REMOVED
- NORTH POINT
- SITE DIMENSIONS
- SITE LEVELS
- EXIST TREES SHOWN
- THUS TO REMAIN
- NEW TREES SHOWN
- THUS TO BE PLANTED



SITE AT TULLAGOWER, COORACLARE, COUNTY CLARE



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