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**12 O'Clock Hills Project Committee
c/o Maureen Cleary
12 O'Clock Hills
Belvoir
Co. Clare
V95 YKN5**

6th September 2023

Section 5 referral Reference R23-60 – 12 O'Clock Hills Project Committee

Is the (1) Establishment of a riverbank walking trailing with seating and biodiversity boards and (2) the placement of an outdoor shelter/classroom in a wooded area at the rear of the 12 O'Clock Hills carpark development and if so, is it exempted development?

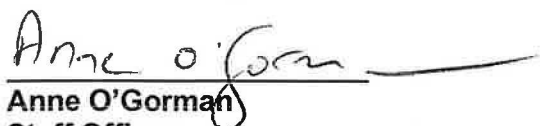
A Chara,

I refer to your application received on 10th August 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 Stiúirtheoireacht 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:

82343

Reference Number:

R23-60

Date Referral Received:

10th August 2023

Name of Applicant:

12 O'Clock Hills Project Committee

Location of works in question:

Belvoir, Sixmilebridge, Co. Clare

Section 5 referral Reference R23-60 – 12 O'Clock Hills Project Committee

Is the (1) Establishment of a riverbank walking trailing with seating and biodiversity boards and (2) the placement of an outdoor shelter/classroom in a wooded area at the rear of the 12 O' Clock Hills carpark 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) Class 33 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended;
- (d) The works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The establishment of a riverbank walking trail with seating and biodiversity boards and the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark 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 establishment of a riverbank walking trail with seating and biodiversity boards and the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark is not exempted development having regard to:
 - a. Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended) whereby the works would consist of the extension / alteration of an unauthorised structure or a structure the use of which is an unauthorised use.
 - b. Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001 (as amended), whereby the works 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, and

c. Schedule 2 of the Planning and Development Regulations 2001 (as amended) whereby the placement of an outdoor shelter / classroom and the erection of biodiversity boards do not come within the meaning of descriptions for any of the Classes of Development provided for in said Schedule.

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 (1) the establishment of a riverbank walking trail with seating and biodiversity boards and (2) the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark at Belvoir, Sixmilebridge, Co. Clare is considered development which is not exempted development.

Signed:


GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

6th September 2023

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

Reference No.: R23-60



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-60

Is the (1) Establishment of a riverbank walking trailing with seating and biodiversity boards and (2) the placement of an outdoor shelter/classroom in a wooded area at the rear of the 12 O' Clock Hills carpark development and if so, is it exempted development?

AND WHEREAS, 12 O'Clock Hills Project Committee 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) Class 33 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended;
- (d) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The establishment of a riverbank walking trail with seating and biodiversity boards and the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark 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 establishment of a riverbank walking trail with seating and biodiversity boards and the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark is not exempted development having regard to:
 - a. Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended) whereby the works would consist of the extension / alteration of an unauthorised structure or a structure the use of which is an unauthorised use.
 - b. Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001 (as amended), whereby the works 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, and

- c. Schedule 2 of the Planning and Development Regulations 2001 (as amended) whereby the placement of an outdoor shelter / classroom and the erection of biodiversity boards do not come within the meaning of descriptions for any of the Classes of Development provided for in said Schedule.

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 (1) the establishment of a riverbank walking trail with seating and biodiversity boards and (2) the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark at Belvoir, Sixmilebridge, 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

6th September 2023

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R23-60
APPLICANT(S):	12 O' Clock Hills Project Committee
REFERENCE:	Whether (1) the establishment of a riverbank walking trail with seating and biodiversity boards and (2) the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark development is or is not development and is or is not exempted development.
LOCATION:	Belvoir, Sixmilebridge, Co Clare
DUE DATE:	06 th September 2023

Site Location

The proposal site is located in a rural area approximately 3.5km southeast of Kilkishen and 5km northeast of Sixmilebridge. The site is accessed via a local road which is narrow but well-surfaced. Several formal passing bays have been developed along the access lane.

The proposed development location is accessed via the carpark associated with the 12 O' Clock Hills walking route. The roadside boundary of the carparking is delineated by a post and rail fence. The carpark is divided between two levels. The upper carpark has a tarmac surface, and the lower carpark has a gravel surface. There are 2no composting toilets in the lower carpark.

There is native forestry on the western side of the carparking and a small stream runs through this forested area. It is within this forested area that a riverside walk and outdoor classroom facility are proposed.

Recent Planning History

No previous planning applications on the proposal site or adjoining lands.

Background to Referral

This Referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by 12 O' Clock Hills Project Committee. The lands which are the subject of this referral are owned by the committee (trustees).

The applicants are seeking a Section 5 Declaration as to whether (1) the establishment of a riverbank walking trail with seating and biodiversity boards and (2) the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark development is or is not development and is or is not exempted development.

The applicants have stated that the outdoor classroom / shelter will provide a safe place for groups to convene, away from moving vehicles in the carpark. The 100m walk along the riverbank would allow people with lesser fitness levels and those with disabilities to enjoy a walking amenity in the area.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

S.3.(1) In this Act, “development” means, except where the context otherwise requires, **the carrying out of any works on, in, over or under land** or the making of any material change in the use of any structures or other land.

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

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

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 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 1.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 33(c)

Development consisting of the laying out and use of land for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.

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,

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

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for

the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,

(vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether (1) the establishment of a riverbank walking trail with seating and biodiversity boards and (2) the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark development at Belvoir, Sixmilebridge, Co. Clare is or is not development and is or is not exempted development.

Particulars of Proposal

The riverbank walk will involve hard-coring all the flat spaces between the trees and along by the stream. Outdoor furniture, fairy features and biodiversity boards will also be included.

The outdoor classroom / shelter will accommodate approximately 20 people. The structure will consist of a floor, roof and short sides. It will be wheelchair accessible. The structure will be delivered to the site in a pre-assembled state. It will be made from laminated and tanalised redwood timber with zinc-plated fixings. It will have a mineral felt roof with sold timber side panels. A brochure for the shelter has been provided with the referral documents.

(1) The establishment of a riverbank walking trailing with seating and biodiversity boards

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 33(c)

Development consisting of the laying out and use of land for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.

Based on my observations on the site, the amenities in the area are open to the public and there are no admission charges for visiting members of the public. The proposed walkway will be a recreational amenity in the area and can reasonably be considered to constitute *the laying out of lands for sports*. The proposed seating is ancillary to same.

No details have been provided on the scale and design of the biodiversity boards. In any event, the erect of signage for the display of recreational / biodiversity information does not come within the meaning of descriptions for any of the Classes of Development provided for in Schedule 2 of the Planning and Development Regulations.

(2) the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark development

The placement of an outdoor shelter / classroom does not come within the meaning of descriptions for any of the Classes of Development provided for in Schedule 2 of the Planning and Development Regulations.

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

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

The proposed works do not contravene a condition attached to any 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,

Not applicable to the current proposal

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

The existing activities on the site (c. 26,000 annual visitors) have never been the subject of the assessment with regards impact on traffic safety. The proposal development, considered individually, is unlikely to create a traffic hazard in the area. However, the potential traffic safety impacts, in combination with the existing development on the site, are unknown.

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

Not applicable to the current proposal

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

Not applicable to the current proposal

(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,

Not applicable to the current proposal

(vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

Not applicable to the current proposal

(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 to the current proposal

(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 to the current proposal.

(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,

The Planning Authority, as the competent authority in the appropriate assessment process, has been unable to reach a determination that the proposal, alone or in-combination with other developments, will not have a significant effect on European sites.

A Screening for Appropriate Assessment and Determination are appended to this report.

(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 to the current proposal. The proposal site is not in close proximity to any designated Natural Heritage Area.

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

The proposal site is located to the rear of the carpark which serves the 12 O' Clock Hills walking trail, the substantial carpark, entranceway, service huts, signage, spot lighting and composting toilets have all been constructed on the site without the benefit of the planning permission. The proposed works would constitute an extension of an unauthorised use of a site.

(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 to the current proposal

(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 to the current proposal

(xi) obstruct any public right of way,

Not applicable to the current proposal

(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 to the current proposal

Recommendation

The following questions have been referred to the Planning Authority:

Whether (1) the establishment of a riverbank walking trail with seating and biodiversity boards and (2) the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark at Belvoir, Sixmilebridge, Co. 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) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Class 33 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended;
- (d) The works as indicated in submitted documents from the referrer.

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

- (a) The establishment of a riverbank walking trail with seating and biodiversity boards and the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark 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 establishment of a riverbank walking trail with seating and biodiversity boards and the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark is not exempted development having regard to:
 - a. Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended) whereby the works would consist of the extension / alteration of an unauthorised structure or a structure the use of which is an unauthorised use.
 - b. Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001 (as amended), whereby the works 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, and
 - c. Schedule 2 of the Planning and Development Regulations 2001 (as amended) whereby the placement of an outdoor shelter / classroom and the erection of biodiversity boards do not come within the meaning of descriptions for any of the Classes of Development provided for in said Schedule.

Now therefore Clare County Council (Planning Authority), hereby decides that (1) the establishment of a riverbank walking trail with seating and biodiversity boards and (2) the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark at Belvoir, Sixmilebridge, Co. Clare is development and is not exempted development.


Executive Planner

Date: 05/09/2023



A/Senior Planner

Date: 05-09-2023

Appropriate Assessment & Determination

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

(a) File Reference No:	R23-60
(b) Brief description of the project or plan:	Whether (1) the establishment of a riverbank walking trail with seating and biodiversity boards and (2) the placement of an outdoor shelter / classroom in a wooded area at the rear of the 12 O' Clock Hills carpark development at Belvoir, Sixmilebridge, Co. Clare is or is not development and is or is not exempted development
(c) Brief description of site characteristics:	Area of natural woodland Sloping downhill from south to north Small watercourse traverses the site. Watercourse is meandering, overflowing rock and irregular topography. Site directly adjoins substantial carpark with lighting, composting toilets, information boards etc.
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	N/A
(e) Response to consultation:	N/A

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

Having regard to the nature and scale of the proposed development, the likely zone of impact is no greater than 5km.

European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source- Pathway- Receptor)	Considered further in screening Y/N
Danes Holes, Poulnalecka SAC (Site Code 000030)	<u>Annex I habitats:</u> <ul style="list-style-type: none"> • Caves not open to the public [8310] • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] <u>Annex II Species:</u> <ul style="list-style-type: none"> • Lesser horseshoe bat <i>Rhinolophus hipposideros</i> [1303] 	1.5km	No direct impacts on the SAC. The proposal site is within the identified foraging range of the SAC.	Yes

Ratty River Cave SAC (Site Code 002316)	<u>Annex I habitats:</u> <ul style="list-style-type: none"> Caves not open to the public [8310] <u>Annex II species</u> <ul style="list-style-type: none"> Lesser Horseshoe Bat <i>Rhinolophus hipposideros</i> [1303] 	3.7km	No direct impacts on the SAC. No connectivity to the site. The proposed development location is outside of the identified foraging area associated with the SAC.	No
Kilkishen House SAC (Site Code 002319)	<u>Annex II species</u> <ul style="list-style-type: none"> Lesser Horseshoe Bat <i>Rhinolophus hipposideros</i> [1303] 	3.7km	No direct impacts on the SAC. No connectivity to the site. The proposed development location is outside of the identified foraging area associated with the SAC.	No

¹ Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

² If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <ul style="list-style-type: none"> Vegetation clearance Demolition Surface water runoff from soil excavation/infill/landscaping (including borrow pits) Dust, noise, vibration Lighting disturbance Impact on groundwater/dewatering Storage of excavated/construction materials Access to site Pests 	Vegetation clearance required to facilitate development. The submitted information indicates that existing trees will be retained. Hardcore will be added between trees to create a walkway. Observations on site indicated that the lands are sloping and very uneven underfoot. Substantial ground works will be required to create an accessible pathway. Potential for silt / sediment run-off into the watercourse during construction
Operational phase e.g. <ul style="list-style-type: none"> Direct emission to air and water Surface water runoff containing contaminant or sediment Lighting disturbance Noise/vibration 	Increase level of noise and disturbance. Increase presence of people and vehicles Potential lighting disturbance.

- Changes to water/groundwater due to drainage or abstraction
- Presence of people, vehicles and activities
- Physical presence of structures (e.g. collision risks)
- Potential for accidents or incidents

In-combination/Other

The proposal site directly adjoins a large carpark area. Aerial photographs indicate that mature trees and vegetation were cleared from the site to facilitate the development of the carpark. Spotlights were noted in the carpark indicating that artificial lighting of the site occurs in the evening / nighttime.

The potential indirect impacts on the SAC as a result of the development which have taken place on the site have never been assessed.

The potential for the current proposal to result in in-combination effects on the European site cannot be ruled out at this time.

(b) Describe any likely changes to the European site:

Examples of the type of changes to give consideration to include:

- Reduction or fragmentation of habitat area
- Disturbance to QI species
- Habitat or species fragmentation
- Reduction or fragmentation in species density
- Changes in key indicators of conservation status value (water or air quality etc.)
- Changes to areas of sensitivity or threats to QI
- Interference with the key relationships that define the structure or ecological function of the site

The proposal will not have a direct impact on the SAC.

Potential exists for indirect impact due to the removal of vegetation within the foraging area associated with the SAC.

(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

☐ Yes ☐ No

N/A


Step 4. Screening Determination Statement

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

The potential for indirect and in-combination effects on European sites cannot be ruled out at this time.

Conclusion:

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input checked="" type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	 05/09/2023	
Signature and Date of the Decision Maker:		

R23-60

Entrance and carpark



spot light on carpark







Composting toilets in carpark area



location of proposed riverside walk





COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

12 O'Clock Hills Project Committee
c/o Maureen Cleary
12 O'Clock Hills
Belvoir
Co. Clare
V95 YKN5

17th August 2023

Section 5 referral Reference R23-60 – 12 O'Clock Hills Project Committee

Is the (1) Establishment of a riverbank walking trailing with seating and biodiversity boards and (2) the placement of an outdoor shelter/classroom in a wooded area at the rear of the 12 O' Clock Hills carpark development and if so, is it exempted development?

A Chara,

I refer to your application received on 10th August 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 Stiúarthóireacht 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



Brian Fahy

From: Paula Blake
Sent: Thursday 17 August 2023 15:30
To: Mark Kerin
Cc: Brian Fahy
Subject: RE: Section 5

Mark,

Back from leave, this is in and allocated.

11/08/2023

Receipt No. : BANKS/809754/1548835

12 O'CLOCK HILLS

SECTION 5 REFERENCES	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

From: Mark Kerin <MKerin@clarecoco.ie>
Sent: Tuesday, August 15, 2023 3:04 PM
To: Paula Blake <pblake@clarecoco.ie>
Cc: Brian Fahy <bfahy@clarecoco.ie>
Subject: RE: Section 5

Paula,

Just wondering if you got a chance to see if this payment was received in the account.

Regards
Mark

Mark Kerin
Clerical Officer
Planning Department
Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2
T: 065 6846409 | E: mkerin@clarecoco.ie | W: www.clarecoco.ie

LOCAL AUTHORITY OF THE YEAR 2022



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL



From: Mark Kerin
Sent: Thursday, August 10, 2023 4:03 PM
To: Paula Blake <pblake@clarecoco.ie>
Cc: Brian Fahy <bfahy@clarecoco.ie>
Subject: FW: Section 5

Paula,

Please see below with details of payment to the account. This payment is for a Section 5 application so the code for this is PL041.

Would you be able to let us know when this payment has been received?

Regards
Mark

Mark Kerin
Clerical Officer
Planning Department
Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2
T: 065 6846409 | E: mkerin@clarecoco.ie | W: www.clarecoco.ie

LOCAL AUTHORITY OF THE YEAR 2022



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL



R23-60,

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) 6892070
 Email: planoff@clarecoco.ie
 Website: www.clarecoco.ie



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

FEE: €80

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

1. CORRESPONDENCE DETAILS.

(a) Name and Address of person seeking the declaration	Maureen Cleary Project Committee Member on behalf of the 12 O'Clock Hills Project Committee 12 O Clock Hill Belvoir Co. Clare V95YKN5
(b) Telephone No.:	Maureen: Patsy:
(c) Email Address:	info@12oclockhills.com
(d) Agent's Name and address:	_____ _____ _____ _____

2. DETAILS REGARDING DECLARATION BEING SOUGHT

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

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

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

Is the (1) establishment of a river bank walking trailing with seating and biodiversity boards and (2) the placement of an outdoor shelter/classroom in a wooded area at the rear of the 12 O'Clock Hills carpark exempted development?

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

Project Background

The 12 O'Clock Hills Project Committee have applied through the ORIS funds to develop a small area of land at the rear of our car park.

The interest and use of the 12 O'Clock Hills has grown dramatically in recent years, in June 2023 we recorded 26,200 people visiting the 12 O'Clock Hills for recreational purposes.

We have noted two things from the increase in use of the 12 O'Clock Hills. Firstly, groups of people meeting for a hike, wellness experience including talk, yoga session, school tours and the likes are using the car park to convene. Some groups convene momentarily while the majority convene for lengths of time. This practice is completely unsafe as the car park is in constant use and it is not a practice we wish to see continued. The second thing we have noted is the 12 O'Clock Hills is only suitable for able bodied people. A basic level of fitness is required to enjoy the trails.

These two points have prompted us to look for ORIS funding to develop a small area of land we purchased last year so that these two issues can be rectified.

Firstly if we add an outdoor classroom/shelter in this area it will become the ideal place for groups to convene. It will also attract new groups for outdoor learning. It will be a safe place away from the moving cars in the car park.

The second addition would be to create a short 100m path through the trees that would also include some seating so that people with lesser fitness levels and intellectual disabilities would be able to enjoy the 12 O'Clock Hills too.

Proposed Walking Path

The proposed work to be carried out includes hard coring all the flat spaces between the trees and along via the stream. We hope to add a path through the trees so people can meander for 100m. The inclusion of some outdoor furniture, fairy features and biodiversity boards will also be included.

Proposed Outdoor Shelter/Classroom

The placement of the shelter or outdoor classroom will accommodate around 20 people during wet and dry weather. This structure will facilitate the learning process in relation to subjects such as biodiversity for both young and not so young. It will also accommodate pre event meet-ups of groups currently using the 12 O'Clock Hills car park for nature studies, yoga sessions, walks hikes, runs and other group meetings. It will be an excellent facility to promote outdoor education among the young in periods of inclement weather conditions aided by its roof type structure and open sides. This shelter will allow classes to take place in situations where there are rain showers or hot suns. The structure will consist of a floor, roof and short sides. It will be accessible by wheel chair users. The structure will be delivered to the site in the pre-assembly state. The structure will be made from laminated and tanalised redwood timber and will have zinc plated fixings. The roof will be a mineral felt roof covering with solid timber side panels. Image attached for your information.

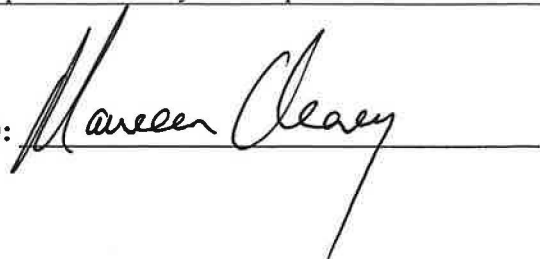
(c) List of plans, drawings etc. submitted with this request for a declaration:

(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)

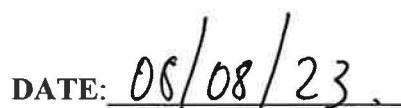
Enclosed project specification drawing outdoor shelter/classroom location in the wooded area at the rear of the car park
Also enclosed is the site location map.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	<p>___ 12 O'Clock Hills</p> <p>Belvoir</p> <p>Sixmilebridge</p> <p>Co. Clare</p> <p>V95 YKN5</p>
(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?	<p>NO</p>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	The land in question is in the ownership of the 12 O'Clock Hills Project Committee (Trustees).
(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:	<p>N/A</p>
<i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	YES
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	NO
(g) Were there previous planning application/s on this site? If so please supply details:	NO
(h) Date on which 'works' in question were completed/are likely to take place:	Early 2024 if grant funding is awarded.

SIGNED:



DATE:



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:	



QF095 - Octagonal Shelter - With Solid Sides, Seats and Decking



Product Features

- Laminated and tanalised redwood timber.
- Zinc plated fixings.
- Mineral felt roof covering.
- Solid timber side panels.
- Free-standing internal benches.

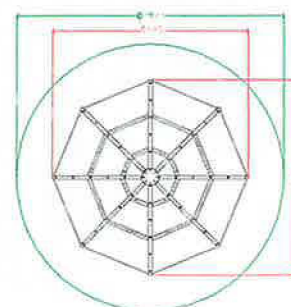
Side elevation

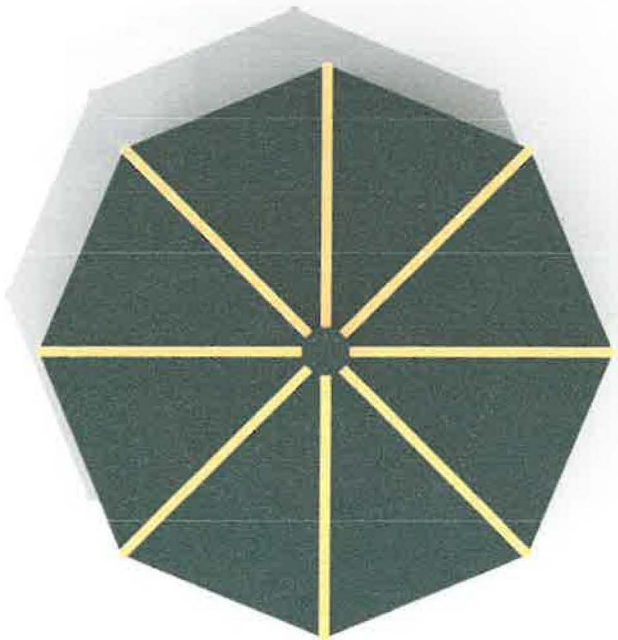


Product Information

	Under 5	5 - 7	7 - 11	11 - 16	Over 16
Intended Age Range					
Free Fall Height	n/a				
Minimum Surfacing Area (if applicable)	n/a				
Minimum Space Required (length x width)	7493mm x 7493mm				
Dimension of Largest Part (length x width)	2800mm x 150mm				
Mass of Heaviest Part (Kg)	9.98				
Wheelchair Accessible	Yes				
Spare Part Availability	2-4 Weeks				
Minimum persons required for assembly	3				

Plan elevation





BROTHERS OF CHARITY SERVICES IRELAND
CLARE REGION

Unit 4, Abbey House, Shannon, Co Clare V14PW68
Tel: 061 365423



To whom it may concern,

The Brothers of Charity Services Clare is always keen to connect those we support with local places within our community. Experience with nature is particularly known to influence a person's health and wellbeing. Moreover, it can be an intervention tool towards increased positive behavioural changes for people with intellectual disability.

At present the walking trails at the 12 O'clock Hills would be too challenging for most supported individuals within our service. However, the opportunity to access a new 100m river sidewalk with an area to sit and listen to nature would hugely benefit the people we support and the wider community.

Brothers of Charity Services Clare would greatly welcome the opportunity to engage this new element of the 12 O'clock Hills. Thank you for making such an opportunity free to us.

Yours sincerely,

Norma Counihan
Senior Day Support Facilitator for Shannon Outreach
(087 9282673) + norma.counihan@bocsi.ie

LOVE AND RESPECT IN EVERY ACTION



47 The Old Forge,
Tulla,
Co. Clare
V95 CY52

06/08/2023

To whom it may concern,

Tulla Scouts are very happy to offer our support to 12 O'Clock Hills committee on the development of their outdoor classroom project.

We are excited about their plans for the future and have a keen interest in using the recreational space that they are proposing to develop on a group & County level.

We see this development as a much needed resource for the 12 O'Clock Hills. On many occasions we have used the 12 O'Clock Hills for events such as hikes, backwoods & Leave No Trace Training. The proposed outdoor classroom would be ideal for such activities and also provide a safe and secure area especially for our younger Beavers & members with additional needs.

We wish them all the best and assure them that they have our full support for the project.

Yours in Scouting

A handwritten signature in cursive script, reading 'Deirdre Duff'.

Deirdre Duff
Group Leader



12 O'Clock Hills Project Committee

08th August 2023

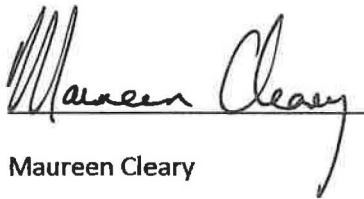
Dear Planning Department

Please email info@12oclockhills.com an invoice for €80 for our
'Declaration on Development and Exempted Development' attached within.
An electronic funds transfer will be made.

This proposed work is part of an ORIS project which Darren Carroll M: [redacted] is assisting us
with. He advised that we should apply for a section 5 application.

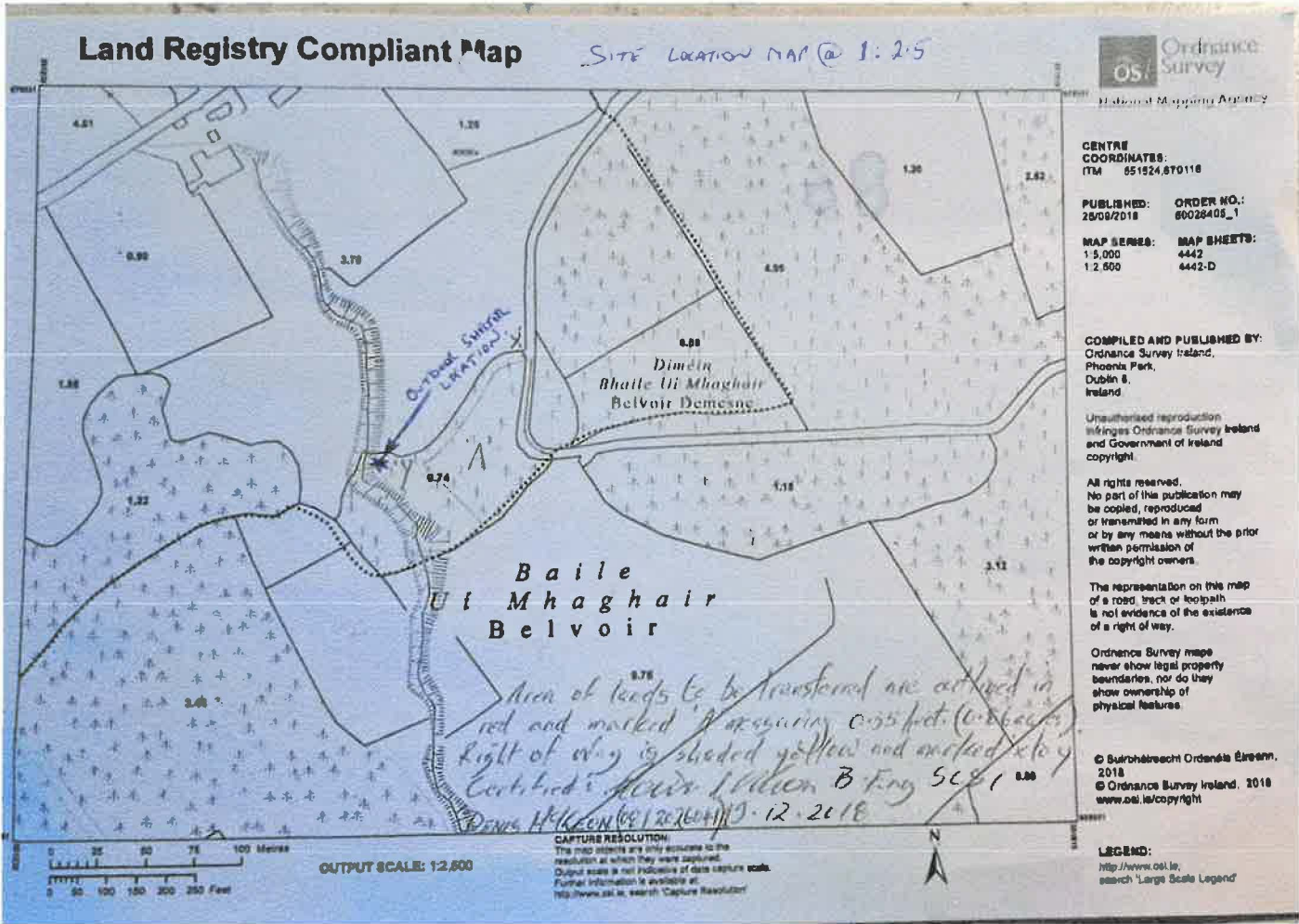
If you have any questions please ring Patsy Neville [redacted] or Maureen Cleary [redacted].

Kind Regards,

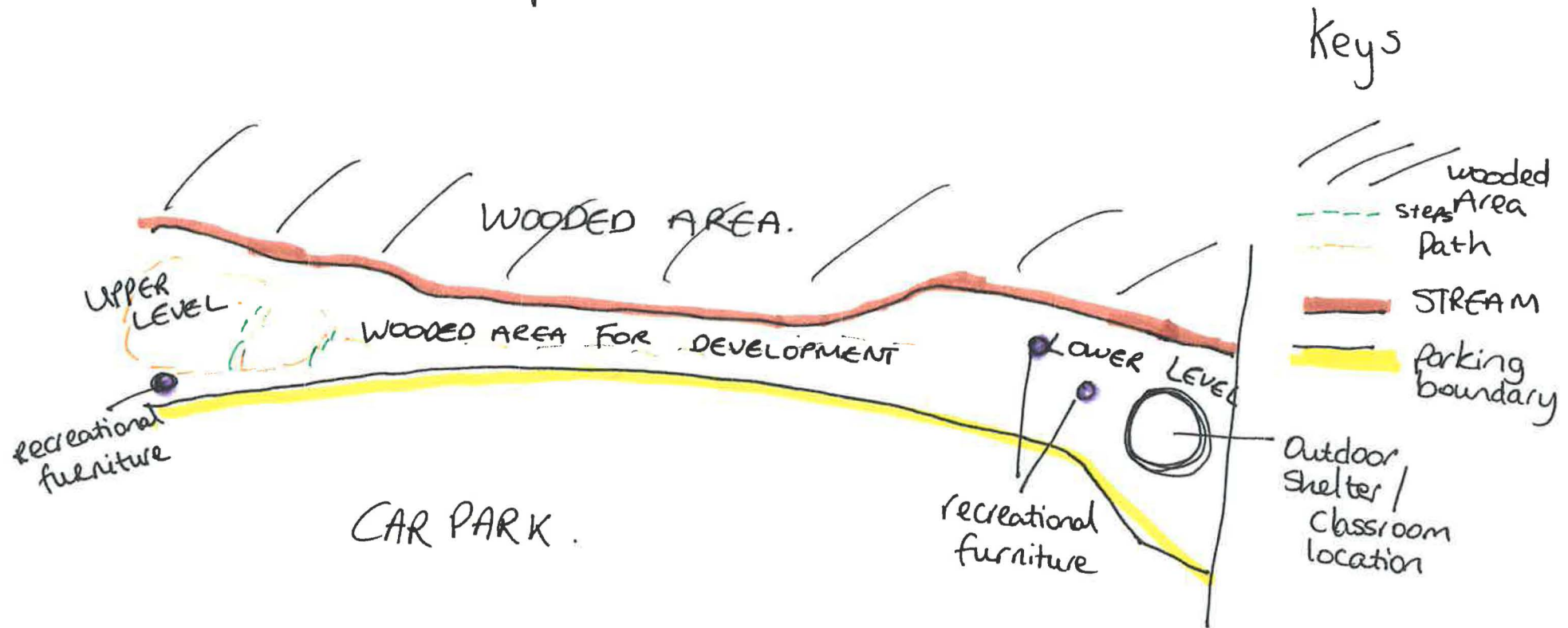


Maureen Cleary

Committee Member 12 O'Clock Hills Project Committee



PROJECT SPECIFICATION.



NOTE : EXISTING TREES TO REMAIN (REMOVAL OF BRIARS ONLY)

- ① CLEAR / LEVEL / HARDCORE ALL OPEN SPACE BETWEEN TREES TO MAKE THEM SUITABLE FOR OUTDOOR FURNITURE + SHELTER / CLASSROOM
- ② 2 X STONE STAIRWAYS REQUIRED FROM LOWER TO UPPER LEVELS
- ③ HANDRAIL + POST + RAIL FENCING + CHICKEN WIRE TO BE INSTALLED WHERE SAFETY DESIRES
- ④ INCLUSION OF FAIRY FEATURES + BIODIVERSITY PANELS + TREE IDENTIFICATION
- ⑤ STONE LEDGE TO BE INSTALLED ALONG THE STREAM TO PREVENT WATER ALONG CLEARED AREA.