



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

Catherine Foley Queally  
c/o Padraig Neylon  
PND Building Consultancy Limited  
Kilrush House, Frances Street  
Kilrush  
Co. Clare

**28th September 2023**

**Section 5 referral Reference R23-71 – Catherine Foley Queally**

Is the proposed demolition of a section of the rear boundary wall and the installation of a pedestrian access gate development and if so is it exempted development?

A Chara,

I refer to your application received on 6th September 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at [www.pleanala.ie](http://www.pleanala.ie)

Mise, le meas

Anne O'Gorman  
Staff Officer  
Planning Department  
Economic Development Directorate

**An Roinn Pleanála**  
**An Stiúirthóireacht Forbairt Gheilleagrach**

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department**  
**Economic Development Directorate**

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





**CLARE COUNTY COUNCIL**

**SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED**

**DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT**

Chief Executive's Order No:

82474

Reference Number:

R23-71

Date Referral Received:

6th September 2023

Name of Applicant:

Catherine Foley Queally

Location of works in question:

132 Shannon Heights, Kilrush, Co. Clare

**Section 5 referral Reference R23-71 – Catherine Foley Queally**

Is the proposed demolition of a section of the rear boundary wall and the installation of a pedestrian access gate development and if so is it exempted development?

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

- (a) Sections 2, 3, 4 and 40 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and
- (c) The works as indicated in submitted documents from the referrer.

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

- (a) The demolition of a section of the rear boundary wall and the installation of a pedestrian access gate at number 132 Shannon Heights, Kilrush, County Clare constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute "*development*" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development comprising of the demolition of a section of the rear boundary wall and the installation of a pedestrian access gate at number 132 Shannon Heights, Kilrush, County Clare is not exempted development having regard to Article 9 (ii) of the Planning and Development Regulations 2001 (as amended) as the proposal would consist of the formation of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,



**NOW THEREFORE** pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the construction of a new vehicular access gate to serve the dwelling at the demolition of a section of the rear boundary wall and the installation of a pedestrian access gate at number 132 Shannon Heights, Kilrush, County Clare is considered both works and development which is not exempted development.

Signed:

  
\_\_\_\_\_  
GARETH RUANE  
SENIOR EXECUTIVE PLANNER

A.O.  


Date:

28th September 2023



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

**Reference No.: R23-71**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R23-71**

**Is the proposed demolition of a section of the rear boundary wall and the installation of a pedestrian access gate development and if so is it exempted development?**

**AND WHEREAS, Catherine Foley Queally** has requested a declaration from Clare County Council on the said question.

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

- (a) Sections 2, 3, 4 and 40 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and
- (c) The works as indicated in submitted documents from the referrer.

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

- (a) The demolition of a section of the rear boundary wall and the installation of a pedestrian access gate at number 132 Shannon Heights, Kilrush, County Clare constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development comprising of the demolition of a section of the rear boundary wall and the installation of a pedestrian access gate at number 132 Shannon Heights, Kilrush, County Clare is not exempted development having regard to Article 9 (ii) of the Planning and Development Regulations 2001 (as amended) as the proposal would consist of the formation of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.

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

The proposed development consisting of the construction of a new vehicular access gate to serve the dwelling at the demolition of a section of the rear boundary wall and the installation of a pedestrian access gate at number 132 Shannon Heights, Kilrush, County Clare **constitutes both works and 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

28th September 2023



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

<b>FILE REF:</b>	R23-71
<b>APPLICANT(S):</b>	Catherine Foley Queally
<b>REFERENCE:</b>	Whether the demolition of a section of the rear boundary wall and the installation of a pedestrian access gate at number 132 Shannon Heights, Kilrush, County Clare is or is not development and is or is not exempted development.
<b>LOCATION:</b>	132 Shannon Heights, Kilrush, County Clare
<b>DUE DATE:</b>	02 <sup>nd</sup> October 2023

**Recent Planning History**

**Onsite**

None.

**Environs**

None.

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Catherine Foley Queally who is the stated owner of the site. She is seeking a Section 5 Declaration as to whether the demolition of a section of the rear boundary wall and the installation of a pedestrian access gate at number 132 Shannon Heights, Kilrush, County Clare is or is not development and is or is not exempted development.

**Statutory Provisions**

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

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

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



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

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

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

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

### Particulars of the Development

On the date of the site visit on the 12<sup>th</sup> September 2023. The access would open onto a narrow grassed area that is on a turning head within the housing estate. The pedestrian access would not be served by a footpath. The metaled surface of the road is greater than 4 metres in width.

### Planning Exemption Assessment

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

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

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

Not applicable.

- (ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

The road is greater than 4 metres in width.

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

Whilst not served by a footpath vehicular movements in this are would be generally slow and relatively limited and I consider that the proposal would not result in a traffic hazard.

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

Not applicable.

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

It is considered that the proposal would not interfere with the character of the area.



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

This is not applicable in this instance.

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

Not applicable.

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

This is not applicable in this instance.

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

The site is located outside of any European Site designation. Having regard to the nature and scale of the proposed development and the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site. An appropriate assessment screening report and determination is attached to this report.

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



Not applicable.

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

Not applicable.

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

This is not applicable in this instance.

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

This is not applicable in this instance.

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

This is not applicable in this instance.

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

This is not applicable in this instance.

### **Recommendation**

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



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

- (a) Sections 2, 3, 4 and 40 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and
- (c) The works as indicated in submitted documents from the referrer.

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

- (a) the demolition of a section of the rear boundary wall and the installation of a pedestrian access gate at number 132 Shannon Heights, Kilrush, County Clare constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "*development*" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development comprising of the demolition of a section of the rear boundary wall and the installation of a pedestrian access gate at number 132 Shannon Heights, Kilrush, County Clare is not exempted development having regard to Article 9 (ii) of the Planning and Development Regulations 2001 (as amended) as the proposal would consist of the formation of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a new vehicular access gate to serve the dwelling at the demolition of a section of the rear boundary wall and the installation of a pedestrian access gate at number 132 Shannon Heights, Kilrush, County Clare constitutes both works and development that is not exempted development.



Executive Planner

Date: 25<sup>th</sup> September 2023



Senior Executive Planner

Date:

25/09/23




## 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	R23-71
Applicant Name	Foley Queally
Development Location	Kilrush
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
Residential pedestrian access	
	



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

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

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

European Sites <sup>2</sup>	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on <a href="http://www.npws.ie/protectedsites">www.npws.ie/protectedsites</a> ) or through Intranet.	Distance to Applicant Site (km)
Lower River Shannon SAC	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritima</i> ) [1330] Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410] Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils ( <i>Molinia caerulea</i> ) [6410] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> ( <i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i> ) [91E0] <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029] <i>Petromyzon marinus</i> (Sea Lamprey) [1095] <i>Lampetra planeri</i> (Brook Lamprey) [1096] <i>Lampetra fluviatilis</i> (River Lamprey) [1099] <i>Salmo salar</i> (Salmon) [1106] <i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349] <i>Lutra lutra</i> (Otter) [1355]	1.6
River Shannon and River Fergus Estuaries SPA	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Whooper Swan ( <i>Cygnus cygnus</i> ) [A038] Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046]	1.6

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

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



European Sites <sup>2</sup>	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on <a href="http://www.npws.ie/protectedsites">www.npws.ie/protectedsites</a> ) or through Intranet.	Distance to Applicant Site (km)
	Shelduck ( <i>Tadorna tadorna</i> ) [A048] Wigeon ( <i>Anas penelope</i> ) [A050] Teal ( <i>Anas crecca</i> ) [A052] Pintail ( <i>Anas acuta</i> ) [A054] Shoveler ( <i>Anas clypeata</i> ) [A056] Scaup ( <i>Aythya marila</i> ) [A062] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Golden Plover ( <i>Pluvialis apricaria</i> ) [A140] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Lapwing ( <i>Vanellus vanellus</i> ) [A142] Knot ( <i>Calidris canutus</i> ) [A143] Dunlin ( <i>Calidris alpina</i> ) [A149] Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Curlew ( <i>Numenius arquata</i> ) [A160] Redshank ( <i>Tringa totanus</i> ) [A162] Greenshank ( <i>Tringa nebularia</i> ) [A164] Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179] Wetland and Waterbirds [A999]	

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?</i>	No effects envisaged



		<i>Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	
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**Conclusion:** If the answer to all of the above is no, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.  
If the answer is "unknown" or "yes" proceed to Table 3 and refer to the relevant sections of Table 3.



Appropriate Assessment Screening Determination	
<b>Planning File Reference</b>	R23-71
<b>Proposed Development</b>	Residential pedestrian access
<b>Development Location</b>	Kilrush
<b>European sites within impact zone</b>	As per report
<b>Description of the project</b>	
Residential pedestrian Access	
<b>Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site</b>	
As per report	
<b>Describe how the project or plan (alone or in combination) is likely to affect the European site(s).</b>	
None.	
<b>If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?</b>	
Limited nature of the proposed works in an urban area.	
<b>Documentation reviewed for making this statement</b>	
NPWS website Plans and particulars received GIS mapping database	
<b>Conclusion of assessment (a, b, c or d)</b>	
<b>(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s)<sup>3</sup></b>	
<b>(b) There is no potential for significant effects to European Sites<sup>3</sup></b>	Yes
<b>(c) The potential for significant effects to European Site(s) cannot be ruled out<sup>4</sup></b>	
<b>(d) Significant effects to European sites are certain or likely or</b>	

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

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

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



where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010 <sup>5</sup>	
Completed By	John O'Sullivan
Date	25 <sup>th</sup> September 2023

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



**Site Photographs**  
**12<sup>th</sup> September 2023**











COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

Catherine Foley Queally  
c/o Padraig Neylon  
PND Building Consultancy Limited  
Kilrush House, Frances Street  
Kilrush  
Co. Clare

11/09/2023

**Section 5 referral Reference R23-71 – Catherine Foley Queally**

Is the proposed demolition of a section of the rear boundary wall and the installation of a pedestrian access gate development and if so is it exempted development?

A Chara,

I refer to your application received on 6th September 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





PND Building Consultancy Ltd.,  
Kilrush House,  
Frances Street,  
Kilrush,  
Co. Clare.

July 2023

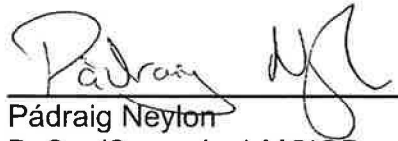
Planning Department,  
Economic Development Directorate,  
Clare County Council,  
Áras Contae an Chláir,  
New Road,  
Ennis,  
Co. Clare.

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

A Chara,

Please find enclosed all relevant documentation for this application on behalf of  
**Catherine Foley Queally @ Shannon Heights, Kilrush, Co. Clare.**

Mise le meas,



Pádraig Neylon  
B. Sc. (Surveying) MCIOB  
Registered Building Surveyor



**Note:**

All correspondence in relation to the above application to be sent to –  
Catherine Foley Queally, C/o - PND Building Consultancy Ltd.  
Kilrush House, Frances Street, Kilrush, Co. Clare. V15 CH68



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

11/09/2023 10:46:34

Receipt No. L1CASH/0/354345  
\*\*\*\*\* REPRINT \*\*\*\*\*

CATHERINE FOLEY QUEALLY  
C/O PADRAIG NEYLON  
PND BUILDING CONSULTANCY LTD  
KILRUSH HOUSE, FRANCES STREET,  
KILRUSH, CO. CLARE  
R23/71

COMHAIRLE

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

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

Change : 0.00

Issued By : L1CASH - Noelette Barry  
From : MAIN CASH OFFICE LODGEMENT AF  
Vat reg No.0033043E



P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

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

Telephone No. (065) 6821616  
Fax No. (065) 6892071  
Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://www.clarecoco.ie)




R23-71

**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          Eircode	Catherine Foley Queally, Shannon Heights, Kilrush, Co. Clare.   V15 FP23  
(b) Telephone No.:	
(c) Email Address:	N/a
(d) Agent's Name and address:	Note: All <u>Correspondence</u> to be <u>sent</u> to the below address -  Padraig Neylon, PND Building Consultancy Limited, Kilrush House, Frances Street, Kilrush, Co. Clare.



## 2. DETAILS REGARDING DECLARATION BEING SOUGHT

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

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

Is the proposed demolition of a section of the rear boundary wall and the installation of a pedestrian access gate an exempted development?

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

The applicant wishes to remove a section of their existing rear boundary wall between two existing piers to provide a pedestrian access gate.

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


*(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)*

Site layout Plan (1/500)

Site Location Map (1/1,000)



3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Shannon Heights, Kilrush, Co. Clare.
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	No
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	The applicant is the owner.
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question:  <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	N/a
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	No
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	N/a
(h) Date on which 'works' in question were completed/are likely to take place:	The works will take place pending the outcome of this application.

SIGNED:   
Agent on behalf of Catherine Foley Queally

DATE: 07 / 07 / 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:.....			



# Planning Pack Map

**CENTRE COORDINATES:**  
ITM 499042,655670

**PUBLISHED:** 06/12/2021  
**ORDER NO.:** 50237832\_1

**MAP SERIES:** 1:2,500  
**MAP SHEETS:** 4728-B

**COMPILED AND PUBLISHED BY:**  
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Dublin 8,  
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**LEGEND:**  
<http://www.osi.ie>;  
search 'Large Scale Legend'

*Leid Mhoir Thoir*  
Leadmore  
East

0.40

Site Edged in Red

## Site Location Map

Showing Location of Site with  
Site Boundaries Edged in Red &  
Location of Site Notice.

**Prepared By:** Pádraig Neylon  
**Qualification:** 0.59 B. Sc. (Surveying) MCIOB

**For:** Catherine Foley Queally.  
**Address:** Shannon Heights, Kilrush, Co. Clare.

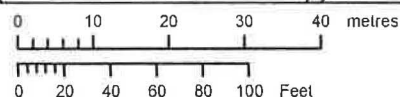
**Scale:** 1 / 1,000  
**Digital Map:** 4728-B.

KILKEE ROAD

Shannon Heights  
Arda na Sionainne

Kilrush  
Cill Rois

D r i m n a

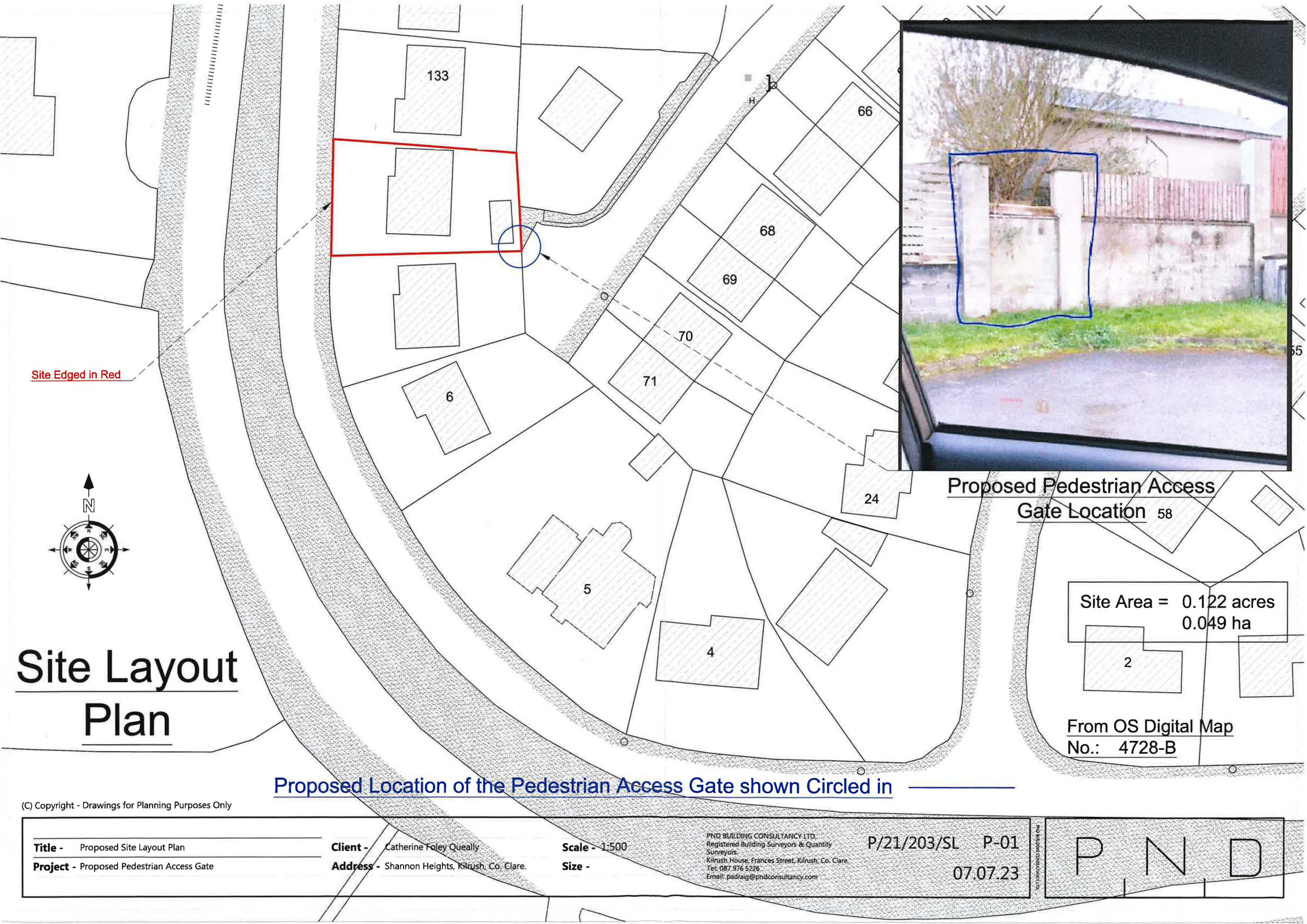


**OUTPUT SCALE: 1:1,000**

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







# Site Layout Plan

(C) Copyright - Drawings for Planning Purposes Only

<b>Title</b> - Proposed Site Layout Plan <b>Project</b> - Proposed Pedestrian Access Gate	<b>Client</b> - Catherine Foley Queally <b>Address</b> - Shannon Heights, Kilrush, Co. Clare.	<b>Scale</b> - 1:500 <b>Size</b> -	PND BUILDING CONSULTANCY LTD. Registered Building Surveyors & Quantity Surveyors. Kilrush House, Frances Street, Kilrush, Co. Clare. Tel: 087 976 5226 Email: padraig@pndconsultancy.com	P/21/203/SL P-01 07.07.23	PND
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Proposed Location of the Pedestrian Access Gate shown Circled in

Proposed Pedestrian Access Gate Location 58

Site Area = 0.122 acres  
0.049 ha

From OS Digital Map No.: 4728-B