



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Patrick O'Shaughnessy  
c/o Sarah Skelly  
Crimmins Howard Solicitors  
Dolmen House, Shannon  
Co. Clare**

**9th October 2023**

**Section 5 referral Reference R23-73 – Patrick O'Shaughnessy**

Is the construction of a wheelchair access ramp to the front of the property development and if so is it exempted development?

A Chara,

I refer to your application received on 19th 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 Stiúthóireacht Forbairt Gheilleagrach**  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

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



**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: 82520

Reference Number: R23-73

Date Referral Received: 19th September 2023

Name of Applicant: Patrick O'Shaughnessy

Location of works in question: 145 Cluain Airne, Shannon, Co. Clare

**Section 5 referral Reference R23-73 – Patrick O'Shaughnessy**

Is the construction of a wheelchair access ramp to the front of the property 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 and 3 of the Planning and Development Act, 2000, as amended,
- (b) Section 4 of the Planning and Development Act 2000 with particular regard to Section 4(1) (h) and 4 (1) (j).
- (c) Articles 6 and 9 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 said wheelchair ramp and railing 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 is exempted development in accordance with the exempted development provisions as are set out in Section 4 (1) (h) & 4 (1) (j) of the Planning and development Act 2000 (as amended)

**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 stated works, being the construction of a wheelchair access ramp to the front of 145 Cluain Airne, Shannon, Co. Clare is **considered development** which is **exempted development**.

Signed:

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

Date:

9th October 2023

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

**Reference No.: R23-73**



**Section 5 referral Reference R23-73**

**Is the construction of a wheelchair access ramp to the front of the property development and if so is it exempted development?**

**AND WHEREAS, Patrick O'Shaughnessy** 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 and 3 of the Planning and Development Act, 2000, as amended,
- (b) Section 4 of the Planning and Development Act 2000 with particular regard to Section 4(1) (h) and 4 (1) (j).
- (c) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (d) The works as indicated in submitted documents from the referrer.

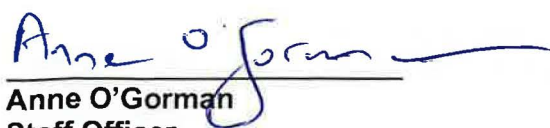
**And whereas Clare County Council has concluded:**

- (a) The said wheelchair ramp and railing 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 is exempted development in accordance with the exempted development provisions as are set out in Section 4 (1) (h) & 4 (1) (j) of the Planning and development Act 2000 (as amended)

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

The proposed development consisting of the stated works, being the construction of a wheelchair access ramp to the front of 145 Cluain Airne, Shannon, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



A handwritten signature in blue ink, reading "Anne O'Gorman", with a horizontal line underneath.

Anne O'Gorman  
Staff Officer  
Planning Department  
Economic Development Directorate

9th October 2023

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

<b>FILE REF:</b>	R23-73
<b>APPLICANT(S):</b>	Patrick O' Shaughnessy
<b>REFERENCE:</b>	Is the construction of a wheelchair access ramp to the front of the property development and if so, is it exempted development.
<b>LOCATION:</b>	145 Cluain Airne Shannon, Co. Clare.
<b>DUE DATE:</b>	<b>13-10-23</b>

**Site Location**

The subject property is located within the town of Shannon and within the housing development of 'Cluain Airne' which consists of terraces of two storey houses. There is a wheel chair access ramp and associated railing constructed to the front of the subject property, 145 Cluain Airne, Shannon.



**Figure 1;** 145 Cluain Airne, Shannon.

**Planning History On subject site.**

None.

### **Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Patrick O 'Shaughnessy who is the stated owner of the property which is the subject of this referral.

The applicant is seeking a Section 5 Declaration as to whether the construction of a wheel chair access ramp is development and if so if it is exempted development.

The wheelchair access ramp and railing have been constructed to the front of the house. On the application form as submitted, the referrer provides the following information:

- A wheelchair access ramp was constructed to the front of the property for the applicant's wife ( now deceased).
- An adaptation grant was provided by Clare County Council for the construction of this.
- The applicant now requires a declaration from Clare County Council that retention permission is not needed and that this is exempted development.

### **Assessment.**

#### **Statutory Provisions for consideration.**

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

To assess this proposal, regard must 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.*

Having regard to the nature of the subject wheelchair access ramp and railing, this is considered to be 'Development' and to be 'Works' as defined by the Planning and Development Act 2000 (as amended).

Regard has also been had to Section 4 of the Planning and Development Act 2000 (as amended) which provides as follows in terms of Exempted Development:

***"Exempted development.***

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

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

*(j) development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such.*

Having regards to the design and form of the existing houses within the Cluain Airne estate, which all have small front gardens, the front walls of many which have been removed, and to the design of the subject wheel chair access ramp and railing, it is considered that the subject works can be considered to be exempted development in accordance with Section 4( 1) (h) of the Planning and Development Act 2000 ( as amended).

Having regard to the use of the subject access ramp and railing as a means of access into the subject houses, it is considered that the subject developments can be considered to be exempted development in accordance with Section 4 (1) (j) of the Planning and Development Act 2000 (as amended).

**(2) 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.

Having examined the forms of exempted development as are set out in column 1 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) I have found that



there is no form of exempted development listed here that can be applied to the subject development.

### **Conclusions**

The following question has been referred to the Planning Authority:

*'Whether the construction of a wheel chair access ramp is development and if so, if it is exempted development'*

The Planning Authority in considering this referral had regard to:

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended,
- (b) Section 4 of the Planning and Development Act 2000 with particular regard to Section 4(1)(h) and 4(1)(j).
- (c) Articles 6 and 9 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 said wheel chair ramp and railing 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 is exempted development in accordance with the exempted development provisions as are set out in Section 4(1)(h) & 4(1)(j) of the Planning and development Act 2000 (as amended)

Now therefore Clare County Council (Planning Authority), hereby decides that the stated works, being the construction of a wheelchair access ramp to the front of 145 Cluain Airne is **development and is exempted development.**

Annemarie McCarthy

Executive Planner

Date: 03-10-23

*A. McCarthy 03-10-23*

Garreth Ruane

Senior Executive Planner

Date.

*noted - GRuane 03/10/23*



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

Patrick O'Shaughnessy  
c/o Sarah Skelly  
Crimmins Howard Solicitors  
Dolmen House, Shannon  
Co. Clare

19/09/2023

**Section 5 referral Reference R23-73 – Patrick O'Shaughnessy**

Is the construction of a wheelchair access ramp to the front of the property development and if so is it exempted development?

A Chara,

I refer to your application received on 19th 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





## SOLICITORS

Dolmen House  
Shannon  
County Clare  
Eircode: V14 HE06

Ph: 061 361088  
Fax: 061 361001  
DX No. 174001 Shannon  
Email: info@crimminshoward.ie  
Web: www.crimminshoward.ie  
Town Agents: Pearts  
Vat No.: IE 6742877N

Clare County Council  
Planning Department  
Economic Development Directorate  
New Road  
Ennis  
Co. Clare  
V95 DXP2



By Email: [bfahy@clarecoco.ie](mailto:bfahy@clarecoco.ie)

Our Reference:  
SS/NM/007371

Your Reference:

Date:  
15 September 2023

Re:/

**Our Client(s): Patrick O'Shaughnessy .  
Sale of 145, Cluain Airne, Shannon, Co. Clare.**

Dear Sir/Madam,

We confirm that we act on behalf of Patrick O'Shaughnessy, the registered owner of 145, Cluain Airne, Shannon, Co. Clare and we now enclose herewith the following for your attention:-

1. Request for a Declaration on Development and Exempted Development.
2. Cheque in the sum of €80.00.
3. Copy File Plan Map.
4. Photographic Evidence.
5. Letter from Clare County Council dated 15<sup>th</sup> June, 2011.

We look forward to hearing from you.



Crimmins Howard Solicitors have been awarded the Outsource Excel Quality Mark  
Gearóid Howard B.A.

Sarah Skelly B.A., L.L.B.

Yours faithfully,

• Crimmins Howard Solicitors.

# CONTAE

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

# AN CHLÁIR

19/09/2023 11:03:11

Receipt No: L1CASH/0/354671  
\*\*\*\*\* REPRINT \*\*\*\*\*

PATRICK O'SHAUGHNESSY  
C/O SARAH SKELLY  
CRIMMINS HOWARD SOLICITORS  
Dolmen House, Shannon, Co Clare  
REF. R23-73

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

Total : 80.00 EUR

Tendered :  
CHEQUES 80.00

Change : 0.00

Issued By : L1CASH - Colm Murphy  
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.  
V95DXP?

Telephone No. (065) 6821616  
Fax No. (065) 6892071  
Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://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	PATRICK O' SHAUGHNESSY 145 CLUAIN ALRNE SHANNON CO. CLARE
(b) Telephone No.:	( ) - - -
(c) Email Address:	'' '' '' ''
(d) Agent's Name and address:	SARAH SKELLY  Sarah Skelly B.A., L.L.B. Solicitor Crimmins Howard Solicitors Dolmen House, Shannon County Clare Tel: 061-361088

## 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 construction of a wheelchair access ramp to the front of the property an exempted development

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

A wheelchair access ramp was constructed to the front of the property for the applicant's wife (now deceased). An Adaptation Grant was given by Clare Co. Co for the construction of same. Applicant now requires clearance from the planning dept of Clare Co. Co that no retention permission is needed and it is an exempt development

- (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)*

- only photo, site plan and letter from Clare Co. Co provided herewith

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	145 CLUAIN AIRNE SHANNON 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):	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>	/
(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:	2011

SIGNED:



DATE:

15.09.2023

### **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: .....	









COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

Ref: HGD 09/85

15<sup>th</sup> June 2011

Margaret O'Shaughnessy  
145 Cluain Airne  
Shannon  
Co Clare

A Chara

I enclose herewith your Approval Certificate (yellow sheet attached) for your Housing Adaptation Grant.

Please keep this enclosed Approval Certificate in a secure place as this must be returned to this office together with a final invoice for the completed works from the registered contractor and a copy of his current C2 or tax clearance cert in order to claim the grant payment. If you wish to have your grant paid directly to your contractor please complete the authorisation at the bottom of the Approval Certificate.

**Please note that the budget for 2011 will be extremely restricted. When the work is complete the Council cannot guarantee immediate payment and you may have to wait for payment to be processed.**

If you wish to discuss your grant before you commence works please phone Brendan Boyce at 6846364 or Martina Downes at 6846400.

Mise le meas

  
A STAFF OFFICER

HOUSING & SOCIAL SERVICES  
Áras Contae an Chláir, Bothar Nua, Inis, Co. an Chláir

Housing, Social & Cultural Services  
Áras Contae an Chláir, New Road, Ennis, Co. Clare

☎: 065 6846334 F: 065 6866058 ✉: info@clarecoco.ie 🌐: www.clarecoco.ie

Fostóir comhionannas deiseanna is ea  
Comhairle Contae an Chláir,  
a chuireann fáilte roimh  
iarratais ón bpobal i gcoitinne



Clare County Council is an  
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The Property  
Registration Authority  
An tÚdarás  
Clárúcháin Maoine



Folio: CE15704F

This map should be read in conjunction with the folio.

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

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(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold



Burdens (may not all be represented on map)

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

A full list of burdens and their symbology can be found at: [www.landdirect.ie](http://www.landdirect.ie)

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