



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Megan McNamara
16 Vernon Crescent
Westbury
Co. Clare
V94 ND3K**

26th August, 2024

Section 5 referral Reference R24-62 – Megan McNamara

Is rebuilding the boundary wall to include an additional 6 feet of property as identified in revised land registry map development and if so, is it exempted development?

A Chara,

I refer to your application received on 1st August 2024 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


**Colette Coakley
Assistant 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: 84088
Reference Number: R24-62
Date Referral Received: 1st August 2024
Name of Applicant: Megan McNamara
Location of works in question: 16 Vernon Crescent, Westbury, Co. Clare

Section 5 referral Reference R24-62 – Megan McNamara

Is rebuilding the boundary wall to include an additional 6 feet of property as identified in revised land registry map 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 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 01st August 2024.

AND WHEREAS Clare County Council has concluded:

- (a) The revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of the residential property at 16 Vernon Crescent, Westbury, County Clare, constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The said development of the revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of the residential property at 16 Vernon Crescent, Westbury, County Clare, is not exempted development having regard to Class 5 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, and Article 9(x) of the Planning and Development Regulations 2001, as amended, as the wall would not be within or bounding the curtilage of the existing dwelling and the new wall would consist of the fencing or enclosure of land habitually open to or used by the public during the 10 years preceding the application.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate

to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of the residential property at 16 Vernon Crescent, Westbury, Co. Clare is **considered development** which is **not exempted development**.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

26th August, 2024

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

Reference No.: R24-62



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R24-62

Is rebuilding the boundary wall to include an additional 6 feet of property as identified in revised land registry map development and if so, is it exempted development?

AND WHEREAS, Megan McNamara 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 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 01st August 2024.

And whereas Clare County Council has concluded:

- (a) The revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of the residential property at 16 Vernon Crescent, Westbury, County Clare, constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) The said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The said development of the revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of the residential property at 16 Vernon Crescent, Westbury, County Clare, is not exempted development having regard to Class 5 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, and Article 9(x) of the Planning and Development Regulations 2001, as amended, as the wall would not be within or bounding the curtilage of the existing dwelling and the new wall would consist of the fencing or enclosure of land habitually open to or used by the public during the 10 years preceding the application.

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 revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of the residential property at 16 Vernon Crescent, Westbury, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Colette Coakley
Assistant Staff Officer
Planning Department
Economic Development Directorate

26th August, 2024

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

FILE REF:	R24-62
APPLICANT(S):	Megan McNamara
REFERENCE:	Whether the revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of their property at 16 Vernon Crescent, Westbury, County Clare, is or is not development and is or is not exempted development.
LOCATION:	16 Vernon Crescent, Westbury, County Clare
DUE DATE:	28 th August 2024

Site Location

The site is located in, Westbury and is zoned as “*Existing Residential*” in the Clare County Development Plan 2023-2029. It is located at number 16 Vernon Crescent and comprises of a semi-detached 2-storey dwelling with a side single storey extension. Parking is to the front of the dwelling. The views towards the rear of the dwelling are local range views. To the side of the site is a linear landscaped area (communal open space area).

Recent Planning History

Onsite

21-208 – Granted - Kathy O'Grady – Retention planning permission for single storey extension to the side of dwelling, consisting of study, utility, bedroom, shower room and all associated site works.

East

22-360 – Granted - John Murphy - for first floor extension to side of house and retention permission for existing shed.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Megan McNamara.

The applicant is seeking a Section 5 Declaration as to whether the revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of their property at 16 Vernon Crescent, Westbury, 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.

Planning & Development Regulations, 2001, as amended Schedule 2, Part 1, Class 5

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

- 1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.*
- 2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.*
- 3. No such structure shall be a metal palisade or other security fence.*

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

- Wall height Not stated
- Wall finishes Not stated
- Location Communal open space area to the side of the existing dwelling

Planning Exemption Assessment

Planning & Development Regulations, 2001, as amended Schedule 2, Part 1, Class 5

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

The proposed works are not within the curtilage of a house or along the boundary of same. The wall would be located in an area that comprises of an open space area of the housing estate.

1. *The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.*

Unknown.

2. *Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.*

Unknown.

3. *No such structure shall be a metal palisade or other security fence.*

Unknown.

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 (for both the dwelling extension and the garage):

- (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 proposal would differ from the original permission as granted.

- (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,*

No alterations to the existing access point are proposed.

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

Not applicable in this instance.

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

The proposal would not 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.*

Reduction in the linear open space 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,*

This is not applicable in this instance.

- (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,*

This is not applicable in this instance.

- 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."*

This is not applicable in this instance.

- (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,*

This is not applicable in this instance.

- (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,*

Applicable. The wall would enclose an open space area within the housing estate habitually open to or used by the public during the 10 years preceding the application.

- (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

The following question has been referred to the Planning Authority:

Whether the revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of the residential property at 16 Vernon Crescent, Westbury, County 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 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 01st August 2024.

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

- (a) The revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of the residential property at 16 Vernon Crescent, Westbury, County Clare, constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development of the revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of the residential property at 16 Vernon Crescent, Westbury, County Clare, is not exempted development having regard to Class 5 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, and Article 9(x) of the Planning and Development Regulations 2001, as amended, as the wall would not be within or bounding the curtilage of the existing dwelling and the new wall would consist of the fencing or enclosure of land habitually open to or used by the public during the 10 years preceding the application.

Now therefore Clare County Council (Planning Authority), hereby decides that the revision of site boundaries and the construction of a new boundary wall to include an additional area at the side of the residential property at 16 Vernon Crescent, Westbury, County Clare is development and is not exempted development.


Executive Planner
Date: 23rd August 2024


Senior Executive Planner
Date: 26/08/24

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	R24-62
Applicant Name	Megan McNamara
Development Location	16 Vernon Crescent
Application accompanied by an EIS	No
Application accompanied by an NIS	No

Description of the project (To include a site location map):

Boundary wall relocation

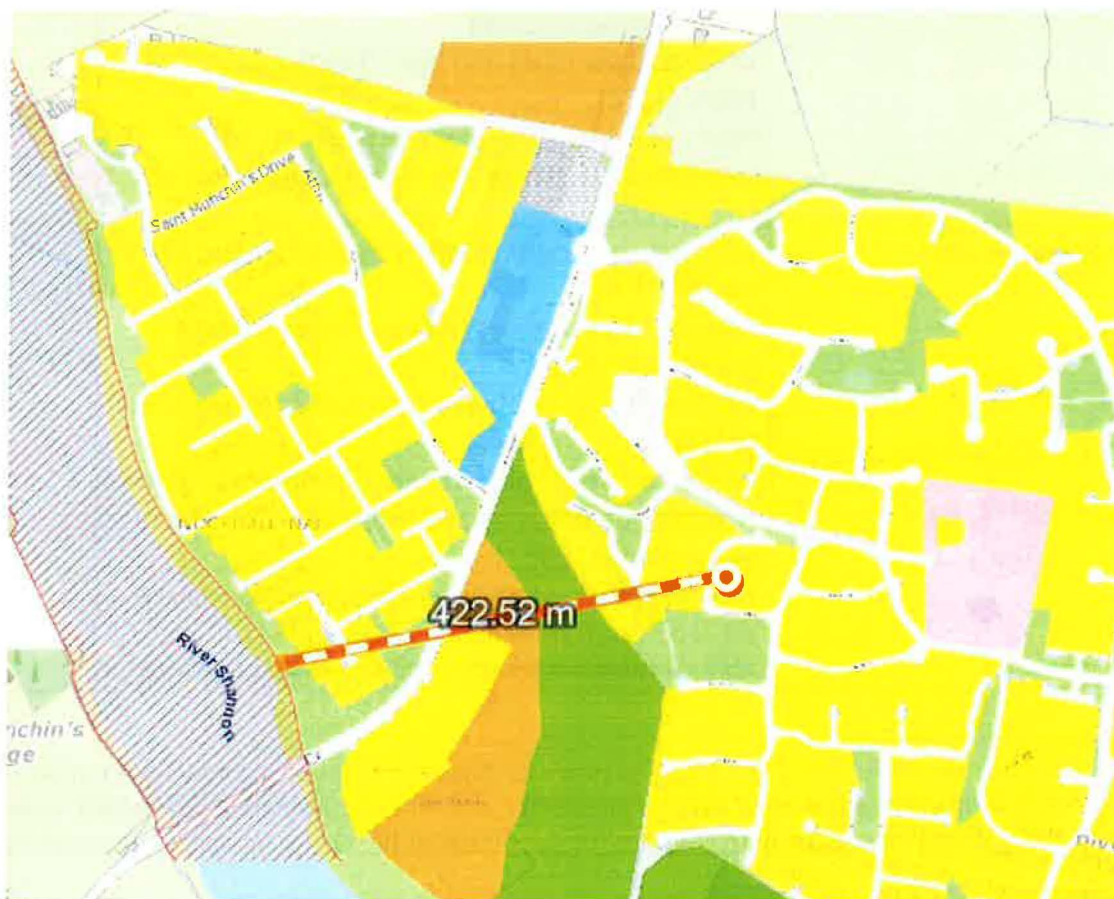


Table 2: Identification of European sites which may be impacted by the proposed development.

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

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

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Lower River Shannon SAC	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculum fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus</i>	0.4

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

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

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
	<p>excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355]</p>	

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>	Yes
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>	Yes
5	Indirect effects	<i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No – minor nature of works, distance from designation and no direct hydrological link

Appropriate Assessment Screening Determination	
Planning File Reference	R24-62
Proposed Development	Boundary wall relocation
Development Location	16 Vernon Crescent Westbury
European sites within impact zone	As per report
Description of the project	
Boundary wall relocation	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
No impacts envisaged.	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
minor nature of works, distance from designation and no direct hydrological link	
Documentation reviewed for making this statement	
NPWS website Plans and particulars received GIS mapping database	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s) ³	
(b) There is no potential for significant effects to European Sites ³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out ⁴	
(d) Significant effects to European sites are certain or likely or	

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

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

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

<p>where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵</p>	
<p>Completed By</p>	<p>John O’Sullivan</p>
<p>Date</p>	<p>23rd August 2024</p>

⁵ The proposed development must either be 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.

24-62
19th August 2024











COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Megan McNamara
16 Vernon Crescent
Westbury
Co. Clare
V94 ND3K

02/08/2024

Section 5 referral Reference R24-62 – Megan McNamara

Is rebuilding the boundary wall to include an additional 6 feet of property as identified in revised land registry map development and if so, is it exempted development?

A Chara,

I refer to your application received on 1st August 2024 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 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
Aras Contae an Chláir
New Road
Ennis
Co Clare



02/08/2024 09:45:13

Receipt No. L1CASH/0/367598
***** REPRINT *****

MEGAN MCNAMARA
16 VERNON CRESCENT
WESTBURY
CO. CLARE

R24-62

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

COMHAIRLE
CONTAE

Total : 80.00 EUR

AN CHLÁIR

Tendered :
CREDIT CARDS 80.00



Change : 0.00

Issued By : L1CASH - DEIRDRE FRENCH
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
Website: www.clarecoco.ie



R24-62

**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	MEGAN MC NAMARA 16 VERNON CRESCENT WESTBURY CLARE V94 N03K
(b) Telephone No.:	+ - - - -
(c) Email Address:	-
(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 rebuilding the boundary wall to include an additional 6 feet of property as identified in revised land registry map considered development & if so is it considered exempt development?

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

When purchasing our property we discovered discrepancies in the boundary map provided by land registry. Initially lines did not accurately reflect the extent of our property. This discrepancy has since been corrected as evident in attached revised map. Corrected map shows additional 6 feet of land on side of property which is currently outside existing boundary wall.

We are seeking to rebuild the boundary wall to include this additional 6 feet of land as now accurately represented in the revised property map. We request a declaration to determine whether this action - rebuilding the boundary wall to incorporate the additional land - constitutes development, and if so

whether it is considered 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)

Attached out back of document

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Megan McNamee 16 Vernon Crescent Westbury Clon
(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?	The works in question do not affect a Protected Structure
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	I am the owner. Legal interests in the land & structure is held by me
(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? <i>If so please supply details:</i>	N/A
(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:	2025

SIGNED: 

DATE: 26.07.2024

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:

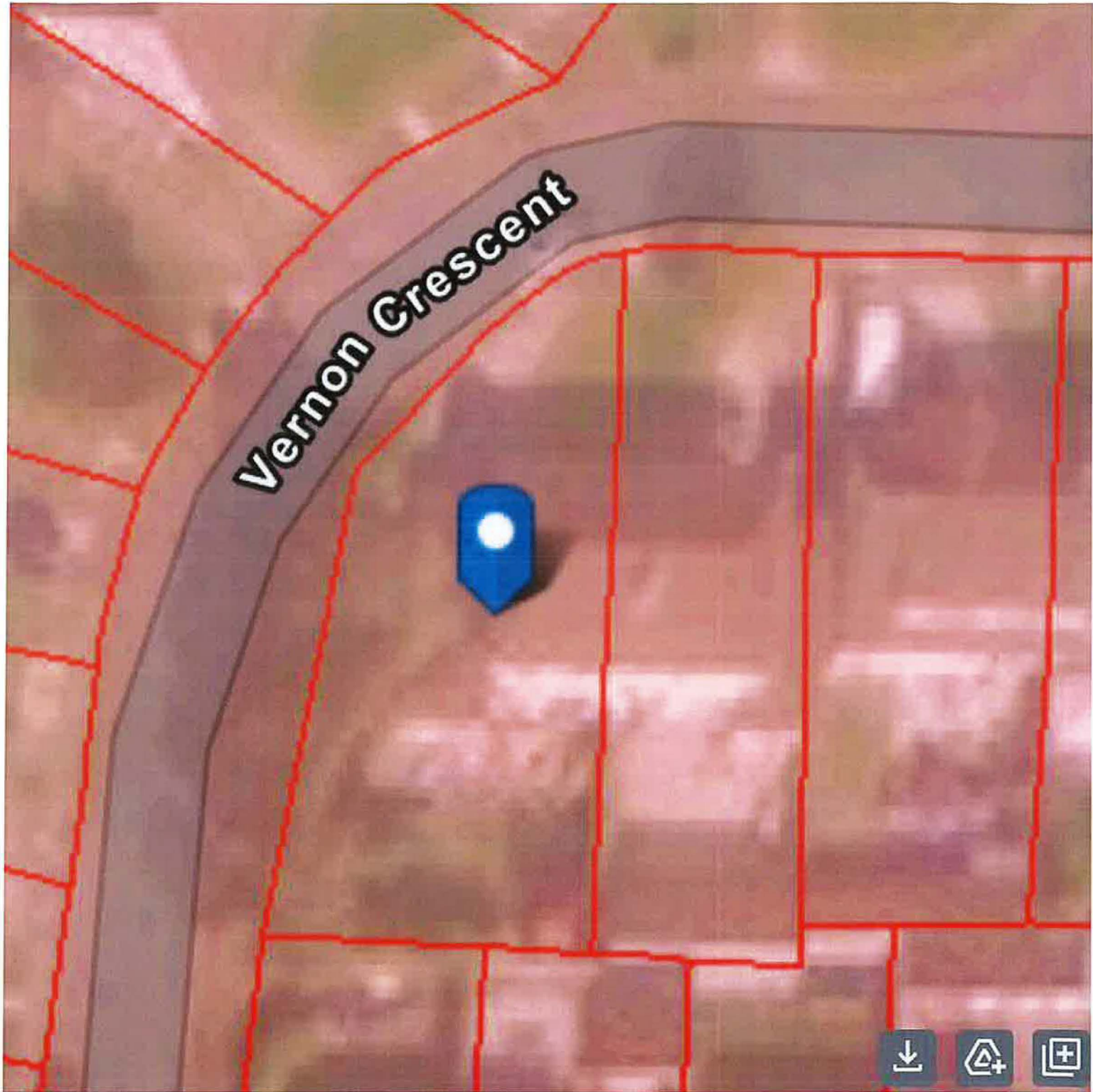
Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (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

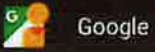
FOR OFFICE USE ONLY

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

Updated via land registry
currently



← 10 Vernon Cres County Clare



Google Earth

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Camera: 10 m

6/21/2019

DL Convert... Settings Claim Applications



↑
Google image
showing incorrect
boundary well



↑
old map from
land registry

Popline Green

No 198

Folio 8950 of 1518 of Unregistered

LAND

LAND REGISTRY

6-05

DATED 5th OF April 1989

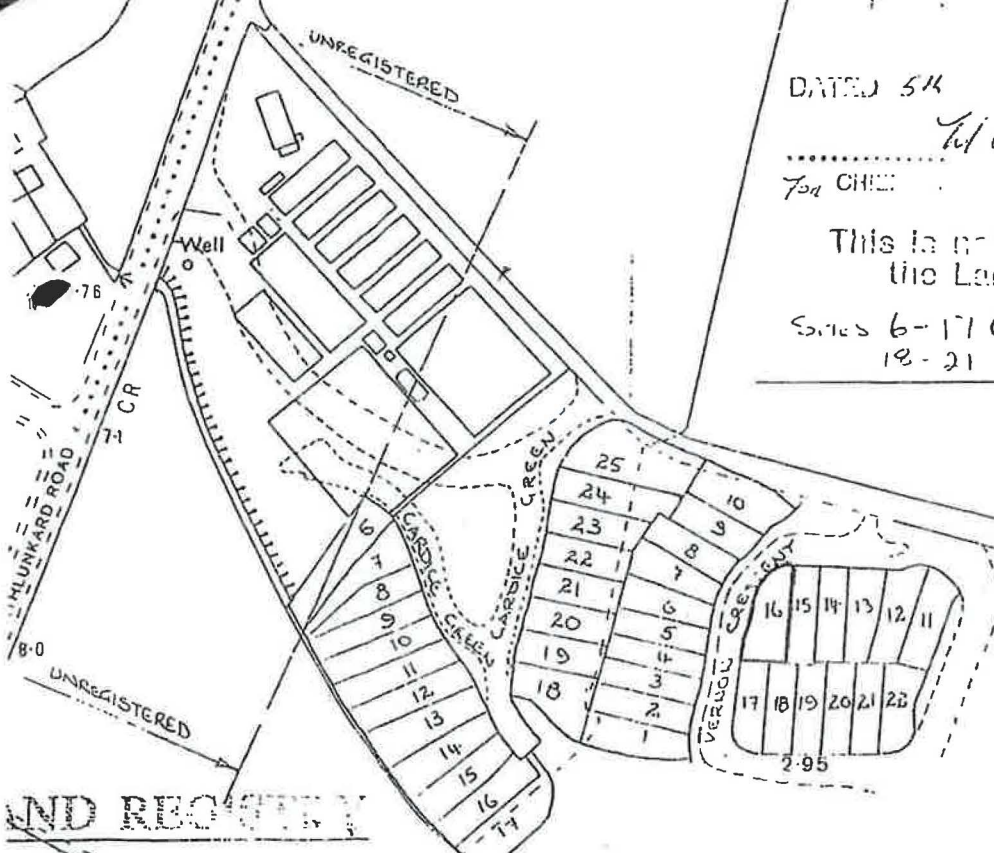
T/O T/O C

For CHIEF

This is not a certified copy of the Land Registry Map

Sites 6-17 GARADICE GREEN 18-21 " "

OF GARADICE GREEN 3-48 VERNON CRESCENT.



Athlunka

LAND REGISTRY

APPROVED FOR REGISTRATION PURPOSES

13th OF Oct 1989

[Signature]

SUPERINTENDENT MAPS 104 BRAC

This is not a certified copy of the Land Registry Map SITES 11-22 VERNON CRESCENT.

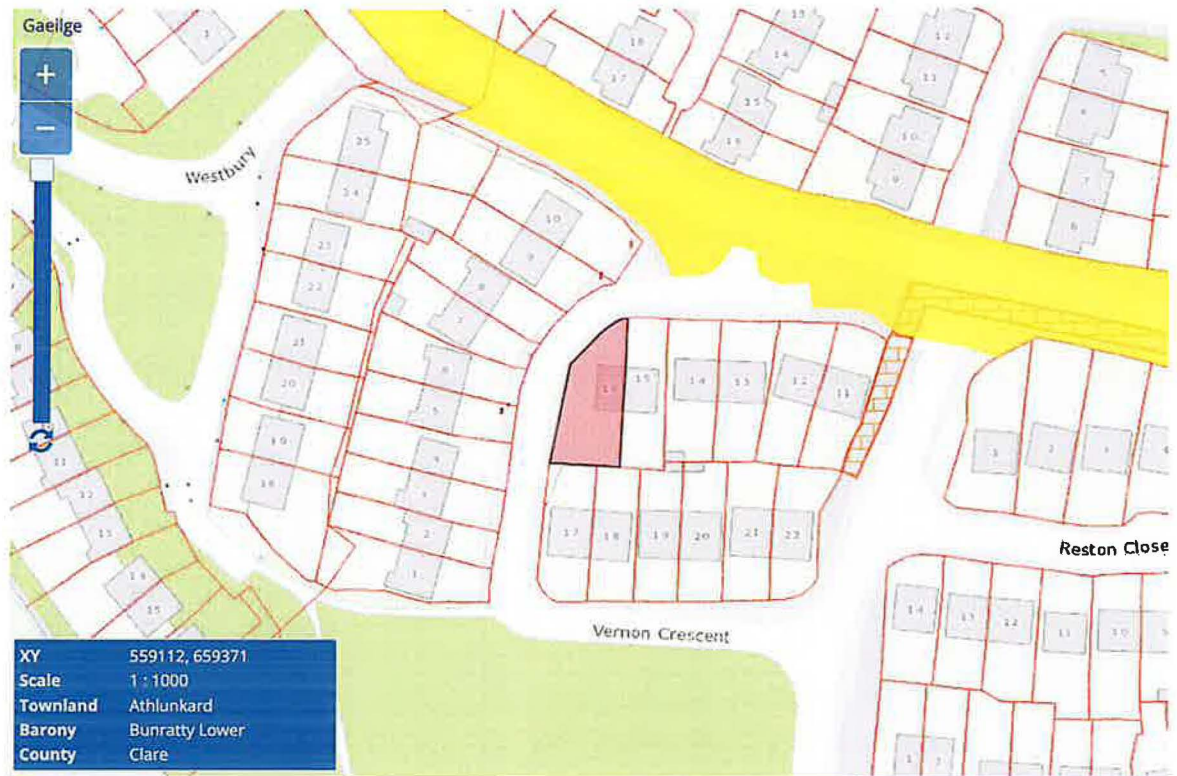
A T H L U N K A ATH LONGFOIRT

McINERNEY CONSTRUCTION LTD. HOUSING DEVELOPMENT AT ATHLUNKARD, COUNTY CLARE SITES TO BE REGISTERED ARE NUMBERED 6 TO 21 INCLUSIVE PLEASE NOTE THAT ONLY PART OF SITE 6 IS ON REGISTERED PROPERTY PART OF O.S. CLARE SHEET 408 - B SCALE - 1/2500 PREPARED BY: [Signature] H.S.C.T DATE: 28/3/89

18-17 Garadice Green, 18-21 Athlunkard, 18-21 Athlunkard, 18-21 Athlunkard

Updated Map to reflect the original map before they were digitised - Redrawn in 2022

Link [here](#) to the website.



Cresce

CU5T

UNION

