



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Valerie McInerney  
Brickhill East  
Cratloe  
Co. Clare**

**15th May 2024**

**Section 5 referral Reference R24-8 – Valerie McInerney**

Is the widening and relocating of a gate 2-3 meters in from the road development and if so is it exempted development?

A Chara,

I refer to your application received on 25th January 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](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: 83568

Reference Number: R24-8

Date Referral Received: 25th January 2024

Further Information Received: 25th April 2024

Name of Applicant: Valerie McInerney

Location of works in question: Ballybroghan, Sixmilebridge, Co. Clare

**Section 5 referral Reference R24-8 – Valerie McInerney**

Is the widening and relocating of a gate 2-3 meters in from the road 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 9 'Sundry Works' and Class 11 of Schedule 2, Part 1' Exempted Development General' 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 stated works constitute development as set out under the Planning Act and Planning Regulations and are exempted development in accordance with the provisions of Class 9 and Class 11 of Schedule 2, Part 1' Exempted Development General' of the Planning and Development Regulations 2001 (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 widening and relocation of an existing gate to a gate 2-3m in from the roadside and the creation of a new agricultural access into a field at Ballybroghan, Sixmilebridge, Co. Clare is considered development which is exempted development.

Signed:

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

Date:

15th May 2024

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

Reference No.: R24-8



**Section 5 referral Reference R24-8**

**Is the widening and relocating of a gate 2-3 meters in from the road development and if so is it exempted development?**

**AND WHEREAS, Valerie McInerney** 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 9 'Sundry Works' and Class 11 of Schedule 2, Part 1' Exempted Development General' 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 stated works constitute development as set out under the Planning Act and Planning Regulations and are exempted development in accordance with the provisions of Class 9 and Class 11 of Schedule 2, Part 1' Exempted Development General' of the Planning and Development Regulations 2001 (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 widening and relocation of an existing gate to a gate 2-3m in from the roadside and the creation of a new agricultural access into a field at Ballybroghan, Sixmilebridge, Co. Clare **constitutes development** which is **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

15th May 2024

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

<b>APPLICANT(S):</b>	Valerie McInerney
<b>REFERENCE:</b>	R24-8
<b>LOCATION:</b>	Ballybroghan, Sixmilebridge, County Clare.
<b>Referral Question;</b>	(1) Is the Widening and relocation of an existing to a gate 2-3m in from the road side development, and if so, is this exempted development.  (2) Is the creation of a new agricultural access into a field development and if so, is this exempted development.
<b>DUE DATE:</b>	<b>15/05/24</b>

**Further Information ( FI)**

FI was sought from the Referrer on 21-02-24. The referrer responded to the request for FI on 25-04-24. The following are the points of FI as were sought from the applicant ( in italics) a summary and brief assessment of the applicants response is provided after each of the points:

*"Having regard to the nature of the road network by which the subject access gate to be altered and where a new agricultural access gate is proposed, and having regard to grounds works as have taken place on the subject land holding in recent times, further information is required in relation to this Section V Referral request, as follows;*

- (1) It is noted that ground works have taken place on the subject lands in recent months. Please provides details as to the nature of the works as have been carried out, details as to the intended use of the land and details as to the Planning Status of any intended/ proposed works at this site.*

**Referrers Response;**

The referrer stated that any works ongoing on the subject land re agricultural in nature and relate to the proper management and maintenance of the lands. This entails drainage and minor adjustments to land levels sand removal of areas of projecting rock to make the land viable for re seeing and grazing.

**Assessment;**

The details submitted in response to point 1 are acceptable.

**(2) Details as to the attainable sight lines at the proposed new agricultural access into the subject lands and the proposed existing agricultural access that is to be altered are required. This detail is required in order to allow for consideration of the potential impact of the proposed works on Road Traffic safety at this location.**

*Please submit site layout plans/s which show the attainable sight lines onto the public road in both directions at the proposed new entrance and at the existing entrance that is to be altered .*

*Please submit details to address the above points and to allow for further consideration of this Section V Referral Request.*

***Referrers Response;***

The agent for the applicant has submitted a landholding map for the subject lands which shows the entrance details of the proposed entrance and widening/ replacement of existing entrance, with sight lines shown and photographs of the achievable sight lines.

***Assessment;***

The details as submitted in response to point 2 of the requests for FI are sufficient to show that adequate sight lines are attainable at the proposed widened access and are sufficient to demonstrate that the revised entrance will not result in a traffic hazard.

***Conclusion***

The details as submitted in response to the request for FI are sufficient to address the points of further information as submitted.

Having regard to the details as originally submitted and to the details submitted in response to the request for FIU, as well as my original assessment of this Section V Referral, I am satisfied that the proposed development is exempt from the requirement to obtain planning permission.

## Recommendation'

The following question has been referred to the Planning Authority;

- (1) Is the Widening and relocation of an existing gate to a gate 2-3m in from the road side is development, and if so, is this exempted development
- (2) Is the creation of a new agricultural access into a field development, and if so, is this 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 9 ' Sundry Works' and Class 11 of Schedule 2, Part 1' Exempted Development General' of the Planning and Development Regulations 2001 ( as amended)
- (d) The works as indicated in submitted documents from the referrer.

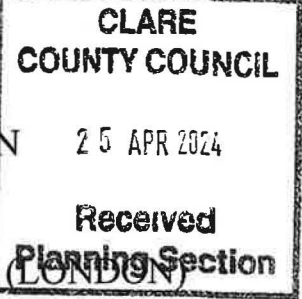
And whereas Clare County Council (Planning Authority) has concluded:

The stated works constitute development as set out under the Planning Act and Planning Regulations and are exempted development in accordance with the provisions of Class 9 *and Class 11* '~~Sundry Works~~' of Schedule 2, Part 1' Exempted Development General' of the Planning and Development Regulations 2001 ( as amended)

Amccathy 14-05-24  
**Annemarie McCarthy**  
Executive Planner  
Date: 14-05-24

GR  
**Garreth Ruane**  
Senior Executive Planner  
Date 15/05/24.





ARCHITECTURAL DRAUGHTING & DESIGN

25 APR 2024

**Gerard Malone**

BTEC NATIONAL CERTIFICATE BUILDING STUDIES (LONDON)

**Tel: 0876615884**

**Email: [malonegero@eircom.net](mailto:malonegero@eircom.net)**

**Correspondence address: Crossbeg, Cross, Kilrush, Co. Clare. V15 VA07.**

24-04-2024.

**Section 5 Referral Ref No R24-8.**

**For Valerie McInerney @ Ballybroughan, Sixmilebridge, Co. Clare.**

Dear Secretary,


I am the agent acting on behalf of Valerie McInerney re above file and correspondence. I wish to respond to letter from Clare County Council Planning Section seeking further information dated 21-02-2024.

1/ Any works ongoing on subject lands are agriculture in nature and relate to proper management and maintenance of same lands. This entails drainage and minor adjustment to levels with removal of areas of projecting rock to thus make land viable for re-seeding and grazing etc.

2/ Enclosed landholding map, entrance drawing details of proposed entrance and widening/replacing existing entrance, with sight distance drawings plus photographs of achievable sight lines.

Trusting all enclosed meets with your approval and any future correspondence can be addressed to myself.

Yours sincerely,

  
Gerard Malone.



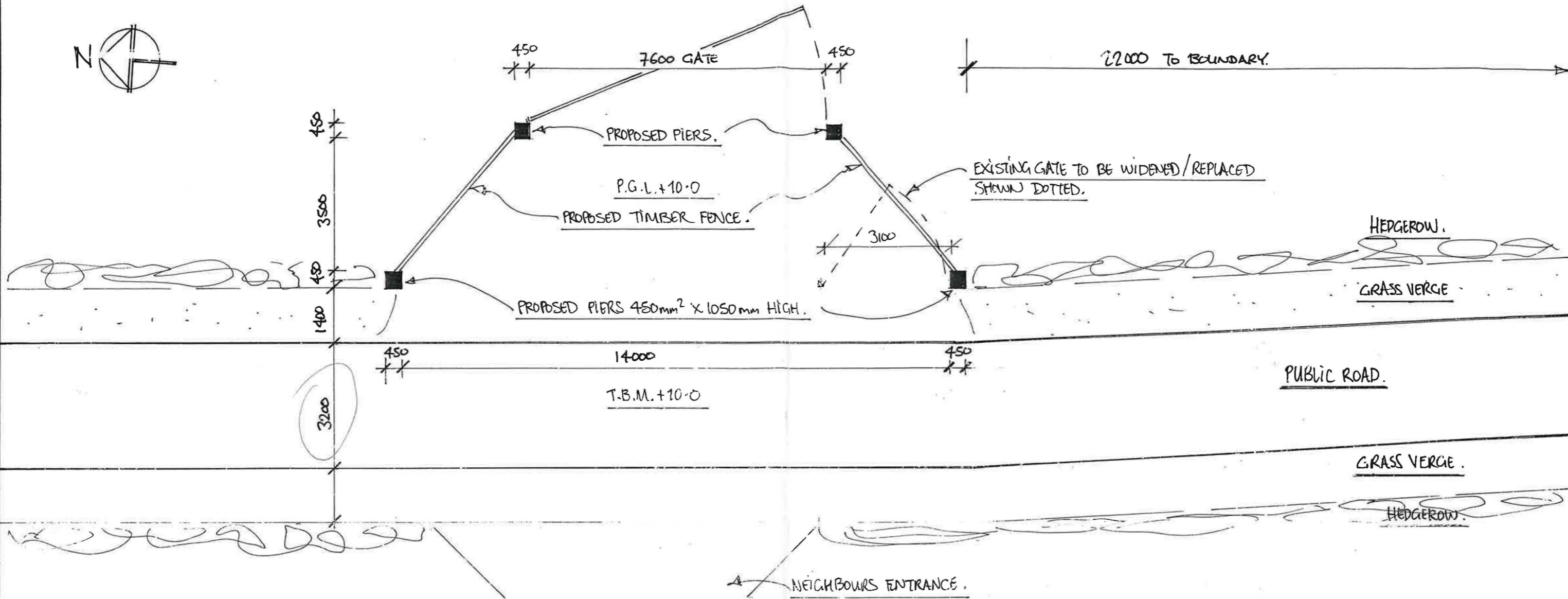
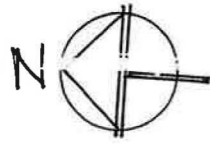
**Valerie McInerney,  
Ballybroughan,  
Sixmilebridge, Co. Clare.  
Ref R24-8, gate1.**





**Valerie McInerney,  
Ballybroughan,  
Sixmilebridge, Co. Clare.  
Ref R24-8, Gate 2.**





PLAN SCALE 1-100 GATE N° 1 REPLACEMENT/NEW

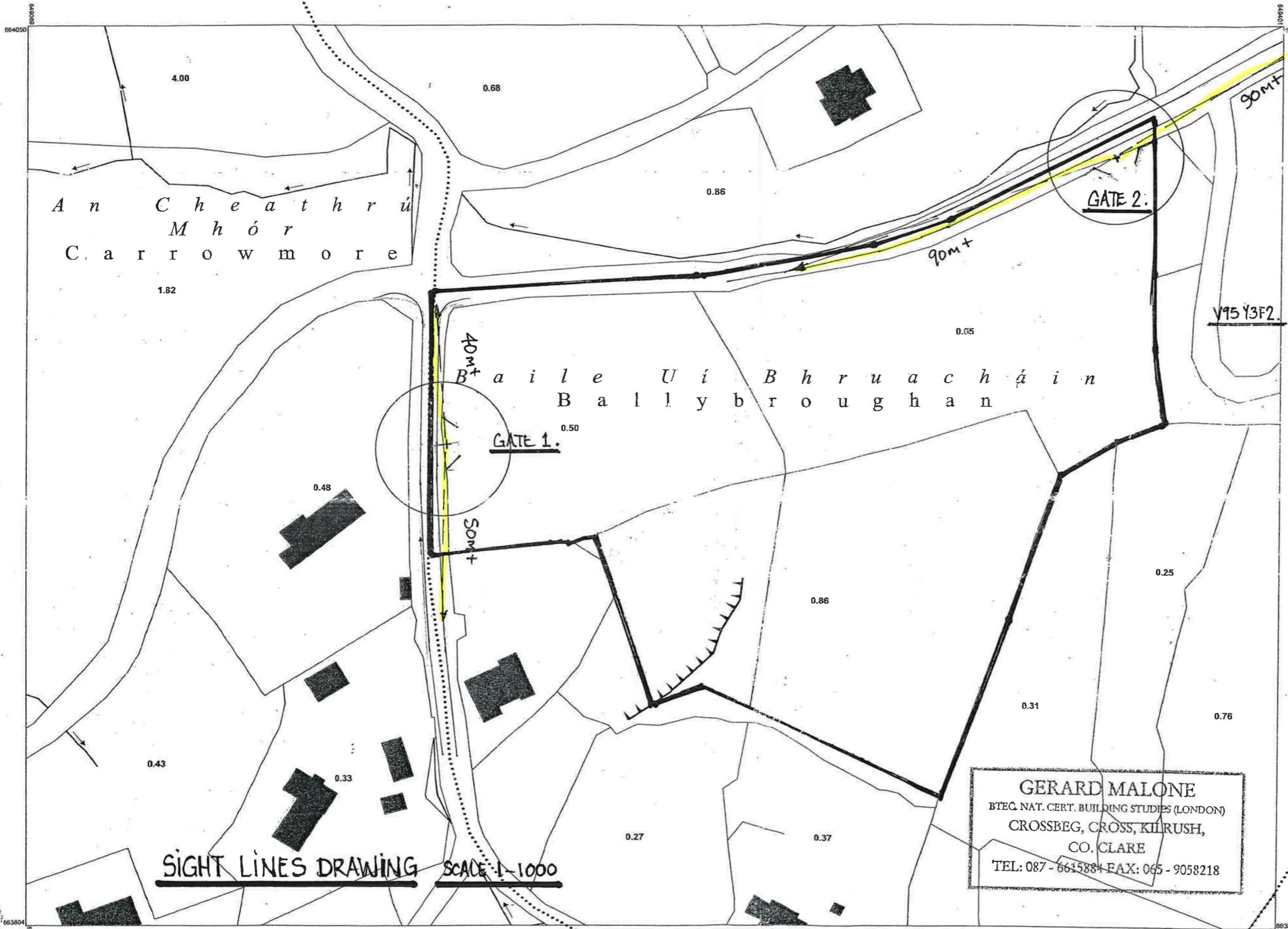
VALERIE MCINERNEY BALLYBROUGHAN SIXMILEBRIDGE Co. CLARE. SECTION 5 REFERRAL REF R24-8

**GERARD MALONE**  
BTEC. NAT. CERT. BUILDING STUDIES (LONDON)  
CROSSBEG, CROSS, KILRUSH,  
CO. CLARE  
TEL: 087 - 6615884 FAX: 065 - 9058218

# Planning Pack Map



**Tailte  
Éireann**



**CENTRE  
COORDINATES:**  
ITM 549235,663927

**PUBLISHED:**  
09/04/2024

**ORDER NO.:**  
50393429\_1

**MAP SERIES:**  
1:5,000  
1:2,500

**MAP SHEETS:**  
4561  
4561-C

**COMPILED AND PUBLISHED BY:**  
Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F6E4

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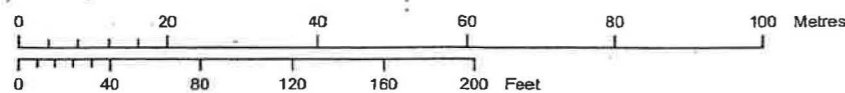
The representation on this map  
of a road, track or footpath  
is not evidence of the existence  
of a right of way.

This topographic map  
does not show  
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**SIGHT LINES DRAWING SCALE 1:1000**



**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:  
[www.tailte.ie](http://www.tailte.ie); search 'Capture Resolution'

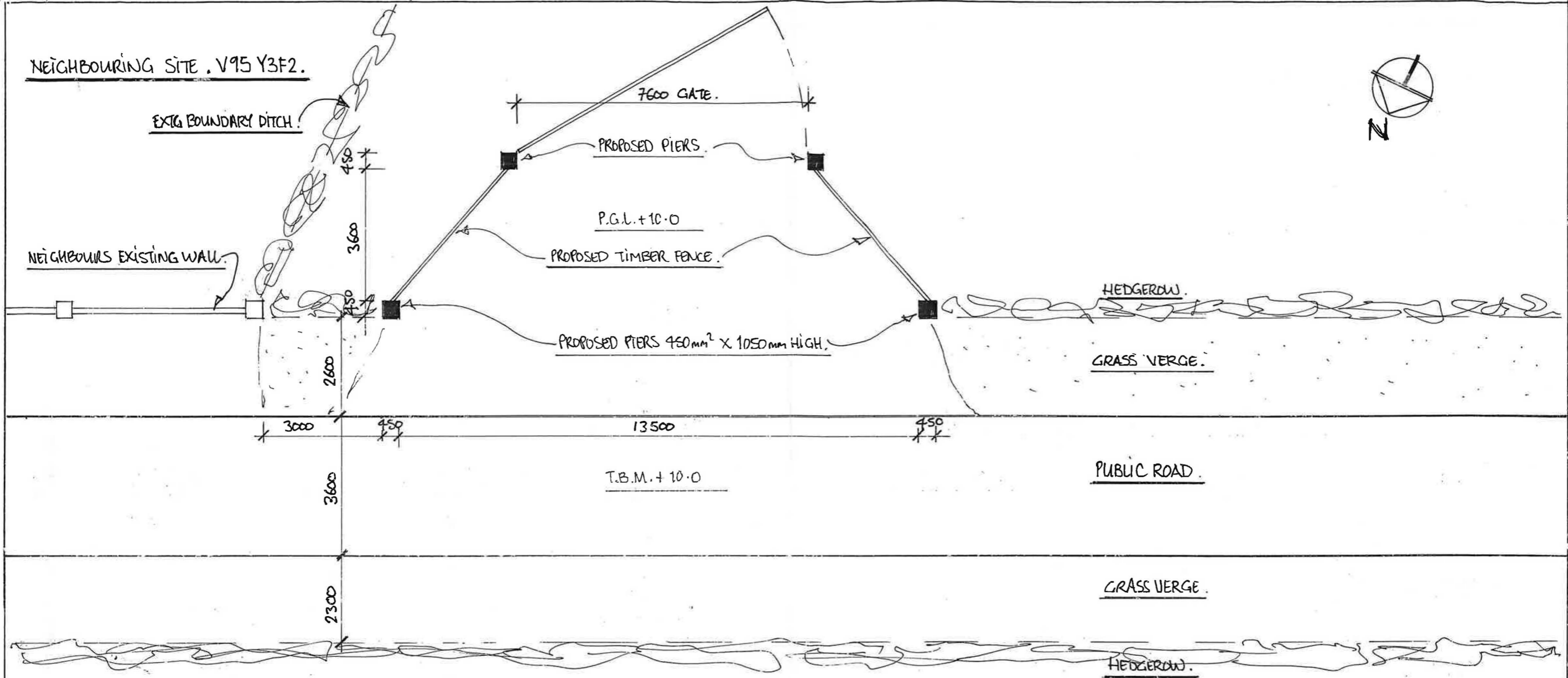
**LEGEND:**  
To view the legend visit  
[www.tailte.ie](http://www.tailte.ie) and search for  
'Large Scale Legend'

N

NEIGHBOURING SITE . V95 Y3F2.

EXISTG BOUNDARY DITCH.

NEIGHBOURS EXISTING WALL.



PROPOSED PIERS 450mm<sup>2</sup> X 1050mm HIGH.

PROPOSED TIMBER FENCE.

P.G.L. +10.0

7600 GATE.

HEDGEROW.

GRASS VERGE.

PUBLIC ROAD.

GRASS VERGE.

HEDGEROW.

PLAN SCALE 1-100 GATE N° 2 NEW / PROPOSED.

VALERIE McINERNEY, BALLYBROUGHAN, SIXMILEBRIDGE, Co. CLARE. SECTION 5 REFERRAL REF R24-8

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### Registered Post

**Valerie McInerney**  
**Brickhill East**  
**Cratloe**  
**Co. Clare**

**21st February 2024**

#### **Section 5 referral Reference R24-8 – Valerie McInerney**

Is the widening and relocating of a gate 2-3 meters in from the road development and if so is it exempted development?

A Chara,

I refer to your application received on 25th January 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

I wish to advise that in accordance with Section 5 (2) (b) of the Planning & Development Act, 2000, as amended, the following further information is required:

Having regard to the nature of the road network by which the subject access gate to be altered and where a new agricultural access gate is proposed, and having regard to grounds works as have taken place on the subject land holding in recent times, further information is required in relation to this Section V Referral request, as follows;

- (1) It is noted that ground works have taken place on the subject lands in recent months. Please provide details as to the nature of the works as have been carried out, details as to the intended use of the land and details as to the Planning Status of any intended/proposed works at this site.
- (2) Details as to the attainable sight lines at the proposed new agricultural access into the subject lands and the proposed existing agricultural access that is to be altered are required. This detail is required in order to allow for consideration of the potential impact of the proposed works on Road Traffic safety at this location.

Please submit site layout plans which show the attainable sight lines onto the public road in both directions at the proposed new entrance and at the existing entrance that is to be altered.

Please submit details to address the above points and to allow for further consideration of this Section V Referral Request.

**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



Mise, le meas

A handwritten signature in blue ink that reads "Josephine Connors". The signature is written in a cursive style and is underlined.

**Josephine Connors**  
**Staff Officer**  
**Planning Department**  
**Economic Development Directorate**



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

**APPLICANT(S):** Valerie McInerney  
**REFERENCE:** R24-8  
**LOCATION:** Ballybroghan, Sixmilebridge, County Clare.  
**Referral Question;** (1) Is the Widening and relocation of an existing ~~gate~~ gate 2-3m in from the road side development, and if so, is this exempted development.  
(2) Is the creation of a new agricultural access into a field development and if so, is this exempted development.  
**DUE DATE:** 20<sup>th</sup> February 2024

**Site Location :** The subject lands are located at a rural location to the north of Cratloe and are accessed via a local secondary road network with a carriageway width of less than 4m- I have measured this on the Clare County Council GIS system. There is an existing access gate at the subject lands at present, as per figure 1). On inspection of this site in February 2024, I noted that some form of ground works appeared to have recently taken place on the subject lands. Parts of the lands had recently been disturbed by machinery and there were piles of earth on the lands ( see photos attached to the end of this report).



**Figure 1;** Existing Agricultural gate proposed to be set back and widened and a splayed entrance provided.



**Figure 2:** Local Road onto which the existing agricultural access gate is located.



**Figure 3;** Agricultural lands that the existing gate leads into. Earth disturbed on the lands in recent times.



**Figure 4;** Approx proposed location of a new access gate.



**Figure 5;** Stretch of roadway onto which proposed new agricultural access would be located.

### **Recent Planning History**

PPI 23-215

This is a pre planning inquiry in the name of Anthony McInerney and relates to a pre planning inquiry re a proposed retirement home/ nursing home and associated works at this location. This pre planning application has not yet been processed.

### **Background to Referral**

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

The applicant is seeking a Section 5 Declaration to determine if the following constitute works are if so, are these works exempted development or not.

- (1) Is the widening and relocation of a gate 2-3m in from the road side development, and if so, is this exempted development.
- (2) Is the creation of a new agricultural access into a field development and if so, is this exempted development.

The referrer has submitted additional information as regards the proposed works, as follows.

- The gate is 9ft wide and the road is narrow and is about 9ft wide as well.
- At present the field cannot be accessed by a tractor for a small lorry for feed delivery for animals .
- The referrer wishes to widen the gate and create a splayed entrance so that a vehicle can pull up safely outside the site as there is nowhere else to park safely.

- As there are two fields, the referrer would like to create a gate entrance from the road into the second field.

### Statutory Provisions Considered

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

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.*

Having regard to the nature of the proposed works, this is ‘Development’ and to be ‘Works’ as defined by the *Planning and Development Act 2000 (as amended)*.

Consideration has also been given to Section 4 (1) (a) of the *Planning Act*. Which states as follows:’

4(1) The following shall be exempted development for the purposes of this Act-

- (a) *Development consisting of the use of any land or the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used.*

**(2) Planning & Development Regulations, 2001, as amended**

The following class of exempted development has been considered:

Exempted Development as Section out under Article 6; Schedule 2, Part 1 ' Exempted development general'

"Class 9 Sundry Works

*The construction, election, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway.*

*Conditions and Limitations; The height of any such structure shall not exceed 2 meters".*

Consideration has also been given to Article 9 (1) ' Restrictions on Exemption' of the Planning regulations which state that Development to Which article 6 ( Exempted development) relates shall not be exempted development for the purposes of the Act 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*

**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,*

***Not applicable; In this case, the sections of public road onto which the agricultural entrances would be constructed has a surfaced carriageway width of less than 4m. On inspection of this site I measured the surfaced carriageway width of both of the roads and found both roads to be less than 4m in surfaced carriageway width.***

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

**The achievable sight lines at the proposed new and proposed altered agricultural access points has not been demonstrated on details submitted, this information is required to make a full assessment in terms of the road traffic implications of the stated works. Further Information is required.**

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

**Not applicable**

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

**Not applicable**

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

**Not applicable**

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

**Not applicable**

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

**Not applicable**

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

**Not applicable**

- (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,*

**Not applicable**

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

**Not applicable**

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

**It is noted some form of grounds works have taken place on the land into which the proposed agricultural access gates ( 1 new and 1 to be altered ) will lead and it is not clear what works have taken place or if the works are exempted development. This detail is required prior to making a determination on this referral. Further Information is required.**

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

**Not applicable**

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

**Not applicable**

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

**Not applicable**

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

**Not applicable**

### **Environmental Impact Assessment**

In assessing this application I have had regard to the provisions of EU Directive 2014/52/EU (which amends EU Directive 2011/92/EU), and which has been transposed into Irish legislation by the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (SI No. 296 of 2018). The subject development does not fall within the mandatory requirements for EIA as set out in Schedule 7 of the Planning and Development Regulations 2001, as amended. I therefore consider that the proposal constitutes a sub-threshold development and note the requirements of Article 103 (1)(a) and (b) of the Planning and Development Regulations 2001, as amended. As such having regard to the nature and scale of the proposed development and the nature of the receiving environment I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **Appropriate Assessment**

Having regard to the small scale and agricultural of the proposed works, and the distance from any European site, it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

<b>Assessment</b>
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### **Particulars of the works proposed.**

The applicant is seeking a Section 5 Declaration in relation to the following to determine if the following constitute works are if so, are these works exempted development or not. The following alterations to the house are proposed ( as stated on the application form submitted):

- (1) Is the widening and relocation of a gate 2-3m in from the roadside development, and if so, is this exempted development.
  
- (2) Is the creation of a new agricultural access into a field development and if so, is this exempted development.

### **Considerations**

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

Having regard to the nature of the stated alterations, this is determined to be 'Development' and to be 'Works' as defined by the Planning and Development Act 2000 (as amended).



## **(2) Planning and Development Regulations 2001 ( as amended)**

Consideration has been given to the following class of exempted development; Exempted Development as Section out under Article 6; Schedule 2, Part 1 ' Exempted development general'

"Class 9 Sundry Works

*The construction, election, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway.*

*Conditions and Limitations; The height of any such structure shall not exceed 2 meters".*

The stated works are considered in terms of potential compliance with the above exemption.

Regard has been had to the restrictions on exempted development as set out under Article 9 (1) ' Restrictions on Exemption' of the Planning regulations and in particular to points (ii) (iii) and ( viii)which state that development consisting of the following shall not be exempted development;

Development which:

*"Consists 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".*

I have inspected the subject site and sections of public road and measured the carriageway width of the roads using the Clare County Council GIS mapping system and have measured the road itself on the ground and I have found the subject local secondary roads to have a surfaced carriage width of less than 4m.

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

The achievable sight lines at the proposed new and proposed altered agricultural access points has not been demonstrated on details submitted, this information is required in order to make a full assessment in terms of the road traffic implications of the stated works. Further Information is required form the referrer in relation to this.

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

It is noted some form of grounds works have taken place on the land into which the proposed agricultural access gates ( 1 new and 1 altered ) will lead and it is not clear what works have taken place or if the works are exempted development. This detail is required prior to making a determination on this referral. Further information shall be sought from the referrer in relation to this.

**Recommendation:**

I recommend that **Further Information** be sought from the referrer to allow for further consideration of this Section V referral, as follows'


Having regard to the nature of the road network by which the subject access gate to be altered and where a new agricultural access gate is proposed, and having regard to grounds works as have taken place on the subject land holding in recent times, further information is required in relation to this Section V Referral request, as follows;

- (1) It is noted that ground works have taken place on the subject lands in recent months. Please provides details as to the nature of the works as have been carried out, details as to the intended use of the land and details as to the Planning Status of any intended/ proposed works at this site.
  
- (2) Details as to the attainable sight lines at the proposed new agricultural access into the subject lands and the proposed existing agricultural access that is to be altered are required. This detail is required in order to allow for consideration of the potential impact of the proposed works on Road Traffic safety at this location.

Please submit site layout plans which show the attainable sight lines onto the public road in both directions at the proposed new entrance and at the existing entrance that is to be altered .

Please submit details to address the above points and to allow for further consideration of this Section V Referral Request.

 21-02-24  
\_\_\_\_\_  
Annemarie McCarthy  
Executive Planner  
Date: 21-02-24

  
\_\_\_\_\_  
Garreth Ruane  
Senior Executive Planner  
Date 21/02/24









COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Valerie McInerney**  
**Brickhill East**  
**Cratloe**  
**Co. Clare**

**26/01/2024**

**Section 5 referral Reference R24-8 – Valerie McInerney**

Is the widening and relocating of a gate 2-3 meters in from the road development and if so is it exempted development?

A Chara,

I refer to your application received on 25th January 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 Stiúrthóireacht Forbairt Gheilleagrach**

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

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

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



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

COMHAIRLE

CONTAE

25/01/2024 12:53:00

Receipt No. L1CASH/0/359732  
\*\*\*\*\* REPRINT \*\*\*\*\*

VALERIE MCINERNEY  
R24-8



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

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

COMHAIRLE

Change : 0.00

CONTAE

Issued By : L1CASH - Patricia Quinlivan  
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)



**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*

<b>1. CORRESPONDENCE DETAILS.</b>	
(a) Name and Address of person seeking the declaration	<p style="font-size: 1.2em; color: blue;">Valerie Mc Inerney</p> <p style="font-size: 1.2em; color: blue;">Brickhill east</p> <p style="font-size: 1.2em; color: blue;">Cratloe</p> <p style="font-size: 1.2em; color: blue;">Co Clare</p>
(b) Telephone No.:	<p style="font-size: 1.2em; color: blue;">---</p>
(c) Email Address:	<p style="font-size: 1.2em; color: blue;">---</p>
(d) Agent's Name and address:	<p style="font-size: 1.2em; color: blue;">---</p>

**CLARE  
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25 JAN 2024

**Received  
Planning Section**



**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?*

There is a gate and i would like to make it wider and shove in from the rd with it about 2-3m in a spade shape. Can i do this?

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

The gate is 9ft wide on a narrow rd about 9ft aswell. the field cannot be accessed with a tractor or a small lorry for feed deliver for animals. I would like to widen at the gate and shove in a spade shape so a vehicle could pull up outside gate as there is no where else to park safely. i'll attach map. ~~Gate~~ Existing gate is in blue and proposed gate to consider in red. As there is 2 fields I was wondering can i get a gate entrance from the rd into the second field. (marked in green). Line of view is good for more than 90m.

(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)*

Nearest eircode. V95W3F9. gate is directly across the rd from that eircode  
 New entrance request just before this eircode V95Y3FZ

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

SIGNED: Valerie M. Inermey

DATE: 3-1-24

**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

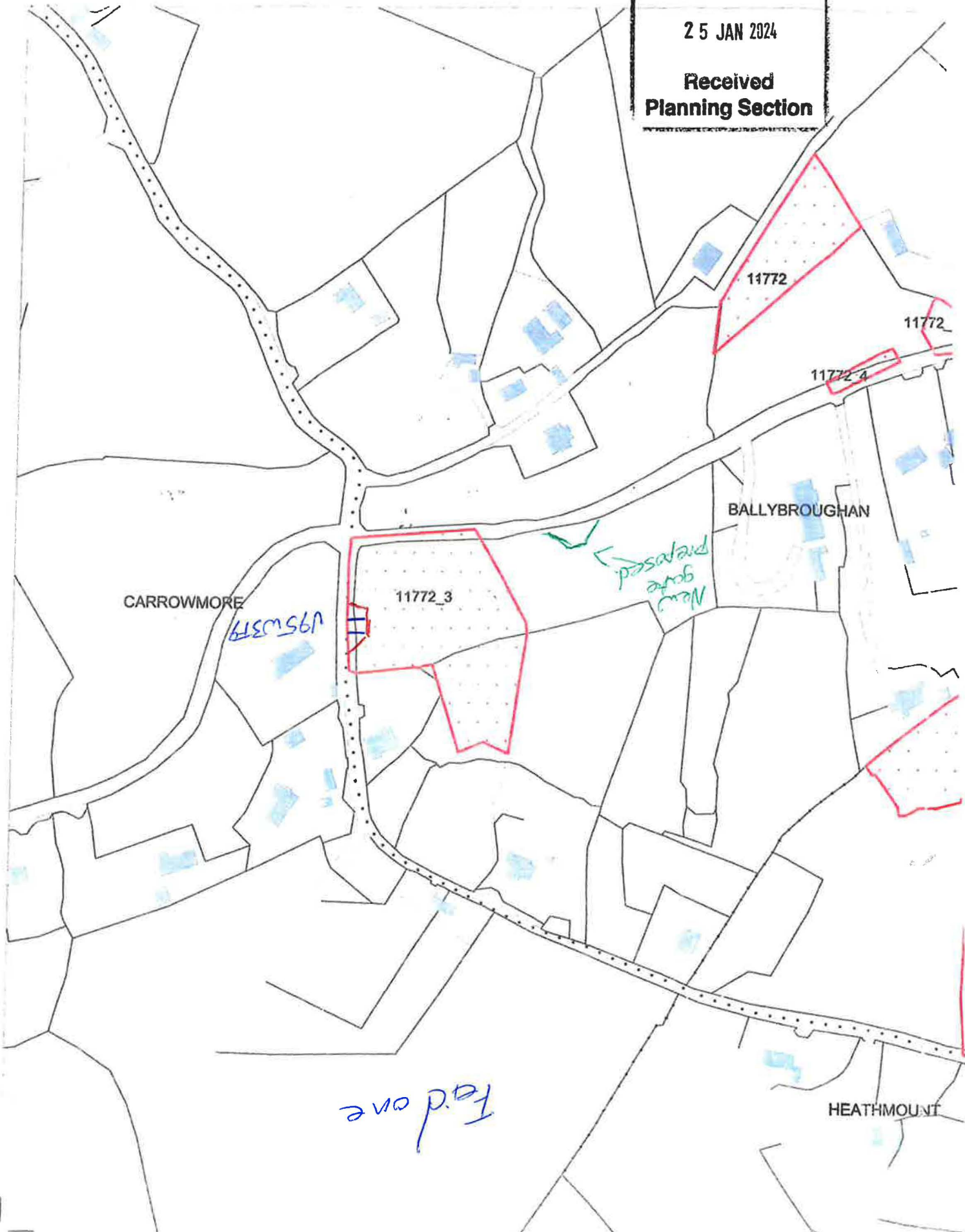
**FOR OFFICE USE ONLY**

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

**CLARE  
COUNTY COUNCIL**

25 JAN 2024

**Received  
Planning Section**



CARROWMORE

*195W37H*

11772\_3

BALLYBROUGHAN

11772

11772

11772\_4

*passage and gate  
New*

*Fiddone*

HEATHMOUNT



F

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.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see [www.pral.ie](http://www.pral.ie).

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

(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.**

