



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Alan McNulty
Oakland House
Ruan
Co. Clare

1st August 2025

Section 5 referral Reference R25-60 – Alan McNulty

Is the construction of a new farm roadway in place of an existing tractor path-way development and if so, is it exempted development?

A Chara,

I refer to your application received on 7th July 2025 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 Coimisiún Pleanála of the required fee, refer a declaration for review by An Coimisiún Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie.

Mise, le meas

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

An Roinn Pleanála
An 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



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

Reference No.: R25-60



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R25-60

Is the construction of a new farm roadway in place of an existing tractor path-way development and if so, is it exempted development?

AND WHEREAS, Alan McNulty 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(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) The details of the proposed works as indicated in submitted documents from the referrer,
- (d) The nature of the subject works and the proximity of the site to nearby European sites and proposed Natural Heritage Areas.

And whereas Clare County Council has concluded:

- (a) The proposed works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (b) The development does not come within the scope of Part 3- Article 6 Exempted Development Rural - Class 13 – *'The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street road or way, and the construction of any private footpath or paving'* because the proposed works are in respect of a new private farm roadway and not repair of an existing private road.
- (c) The development does not come within the scope of Classes 6 to Class 10 inclusive which refers to provisions of structures used for agricultural purposes but does not include farm roads.
- (d) Based on the submitted details, it is not possible to state beyond reasonable doubt that the proposed development would not have a significant negative impact on a European site. Accordingly, the subject development would not constitute exempted development having regard to the restrictions on exemption set out in Article 9(1)(a)(viiB) as it would comprise development in relation to which a planning authority or An Coimisiún 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.
- (e) Based on the submitted details, it is not possible to state beyond reasonable doubt that the proposed development would not have a significant negative impact on Natural Heritage

Area. Accordingly, the subject development would not constitute exempted development having regard to the restrictions on exemption set out in Article 9(1)(a)(viiC).

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

The proposed development consisting of the construction of a roadway over an existing tractor path at Oakland House, Ruan, Co. Clare constitutes development which is not exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

1st August 2025

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:

86046

Reference Number:

R25-60

Date Referral Received:

7th July 2025

Name of Applicant:

Alan McNulty

Location of works in question:

Oakland House, Ruan, Co. Clare

Section 5 referral Reference R25-60 – Alan McNulty

Is the construction of a new farm roadway in place of an existing tractor path-way 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(1) and 9(1) of the Planning and Development Regulations, 2001, as amended
- (c) The details of the proposed works as indicated in submitted documents from the referrer
- (d) The nature of the subject works and the proximity of the site to nearby European sites and proposed Natural Heritage Areas.

AND WHEREAS Clare County Council has concluded:


- (a) The proposed works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (b) The development does not come within the scope of Part 3- Article 6 Exempted Development Rural - Class 13 – *'The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street road or way, and the construction of any private footpath or paving'* because the proposed works are in respect of a new private farm roadway and not repair of an existing private road.
- (c) The development does not come within the scope of Classes 6 to Class 10 inclusive which refers to provisions of structures used for agricultural purposes but does not include farm roads.
- (d) Based on the submitted details, it is not possible to state beyond reasonable doubt that the proposed development would not have a significant negative impact on a European site. Accordingly, the subject development would not constitute exempted development having regard to the restrictions on exemption set out in Article 9(1)(a)(viiB) as it would comprise development in relation to which a planning authority or An Coimisiún 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.

(e)Based on the submitted details, it is not possible to state beyond reasonable doubt that the proposed development would not have a significant negative impact on Natural Heritage Area. Accordingly, the subject development would not constitute exempted development having regard to the restrictions on exemption set out in Article 9(1)(a)(viiC).

ORDER: Whereas by Chief Executive's Order No. HR 343 dated 19th May 2025, Gordon Daly, 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 Helen Quinn, Senior 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, Helen Quinn, Senior Planner, hereby declare that the construction of a roadway over an existing tractor path at Oakland House, Ruan, Co. Clare is **considered development** which is **not exempted development**.

Signed:


HELEN QUINN
SENIOR PLANNER

Date:

1st August 2025

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNER'S REPORT

FILE REF:	R25-60
APPLICANT(S):	Alan McNulty
REFERENCE:	Whether the construction of a farm roadway in place of an existing tractor pathway is development and if so, exempted development.
LOCATION:	Oakland House, Ruan, County Clare
DUE DATE:	01 st August 2025

Site Location

The subject site is located within an existing agricultural holding in Ruan, Co. Clare. The site adjoins the Ballyogan Lough SAC and Ballyogan Lough pNHA which borders the site to the north. The Moyree River System SAC and Moyree River System pNHA is across the road to the south.

Planning History on 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 landowner, Alan McNulty. The applicant is seeking a Section 5 Declaration as to whether the construction of a roadway over an existing tractor path to get to the back of his farm is development and/or exempted development. The road would measure 550m in length and would be 4m wide.

Particulars of Proposal

The particulars of the proposal and site are set out below:

- Completed application form.
- Site location/ownership map.

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*.

Section 2

'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.

Section 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.

Section 4 of the Planning and Development Act does not apply.

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.

Part 3 Article 6 Exempted Development Rural - Classes 6 to Class 10 inclusive refers for provisions of structures used for agricultural purposes but does not include farm roads.

Schedule 2 Part 1 CLASS 13

The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street road or way, and the construction of any private footpath or paving.

Conditions and limitations

The width of any such private footpath or paving shall not exceed 3 metres.

The restrictions on exempted development as set out under article 9 are also noted in particular with respect to European sites.

Assessment

Assessment

The question under consideration is whether the construction of a farm roadway in place of an existing tractor pathway is development and if so, exempted development. From inspection the roadway is largely in place and works appear to have been carried out recently.

Having regard to Section 2(1) of the Planning and Development Act 2001 (as amended), I consider that the proposed development as outlined above, come within the scope of “works” and hence constitutes development in accordance with Section 3(1) of the Planning and Development Act 2001 (as amended). It is not considered that Section 4 of the Act applies. Neither it is considered that exempted development regulations in respect of agricultural structures applies. I refer to Class 13 which allows for repair or improvement of an existing private roadway. However the proposed development does not fall within the scope of this class because at present there was no such ‘roadway’ in place on site and in any event the width of the roadway would exceed 3m in parts.

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 5 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

The location of the proposed roadway adjoins the Ballyogan Lough SAC and the Moyree River SPA. The referral relates to the provision of a 550m road and no details have been submitted in respect of construction details, materials, surface water management etc. Having regard to the nature and scale of the works as proposed it is not possible to complete an Appropriate Assessment Screening in respect of this proposal. As such I consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on the adjoining European Site.

(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,

pNHA

The subject site adjoins the Ballyogan Lough pNHA and the Moyree River pNHA. Having regard to the nature and scale of the proposed development, 550m road, and in the absence of details in respect of construction methodology, materials, surface water management etc it is not possible to draw a conclusion in respect of the impact on the pNHA.

(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."

Conclusion

Whilst there is no objection in planning terms to the provision of the farm access road here. However having regard to the foregoing assessment, it is concluded that the development as proposed comprising the construction of a farm roadway is development and is not exempted development, having regard to the provisions of the Planning and Development Act 2000 as amended. In addition the restrictions on exempted development as set out under Article 9 also apply.

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of a roadway over an existing tractor path at Oakland House, Ruan, Co. Clare is or is not development and is or is not exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended
- (c) The details of the proposed works as indicated in submitted documents from the referrer
- (d) The nature of the subject works and the proximity of the site to nearby European sites and proposed Natural Heritage Areas.

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

- (a) the proposed works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (b) The development does not come within the scope of Part 3- Article 6 Exempted Development Rural - Class 13 – *'The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street road or way, and the construction of any private footpath or paving'* because the proposed works are in respect of a new private farm roadway and not repair of an existing private road.
- (c) The development does not come within the scope of Classes 6 to Class 10 inclusive which refers to provisions of structures used for agricultural purposes but does not include farm roads.
- (d) Based on the submitted details, it is not possible to state beyond reasonable doubt that the proposed development would not have a significant negative impact on a European site. Accordingly, the subject development would not constitute exempted development having regard to the restrictions on exemption set out in Article 9(1)(a)(viiB) as it would 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.

- (e) Based on the submitted details, it is not possible to state beyond reasonable doubt that the proposed development would not have a significant negative impact on Natural Heritage Area. Accordingly, the subject development would not constitute exempted development having regard to the restrictions on exemption set out in Article 9(1)(a)(viiC).

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a roadway over an existing tractor path at Oakland House, Ruan, Co. Clare is development and is not exempted development



Garreth Ruane
Senior Executive Planner
31/07/2025







COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Alan McNulty
Oakland House
Ruan
Co. Clare

07/07/2025

Section 5 referral Reference R25-60 – Alan McNulty

Is the construction of a new farm roadway in place of an existing tractor path-way development and if so, is it exempted development?

A Chara,

I refer to your application received on 7th July 2025 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 Chlair
New Road
Ennis
Co Clare

07/07/2025 11:01:46

Receipt No. : L1CASH/0/381243
***** REPRINT *****

ALAN MCNULTY
OATLAND HOUSE
RUAN, CO CLARE
REF. R25-60

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 - Colin 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.
V95DXP2

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



R25-60

**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	ALAN M. NULTY OAKLAND HSE RUAN CO CLARE
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin-left: auto;"> <p>CLARE COUNTY COUNCIL</p> <p>07 JUL 2025</p> <p>Received Planning Section</p> </div>

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?*

Farm Roadway

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

To make a Roadway over
existing tractor path to get to
the back of my farm, as it is
a health and safety issue in
the winter to feed my stock.

550 metres long
4 metres wide (Max)

(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)

Yes.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	DRIMEEN RUEAN 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 OF LAND
(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)?:	
(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:	July 2005

SIGNED: Alan M. Murphy

DATE: _____

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

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

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

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

**The Property
Registration Authority
An tÚdarás
Clárúcháin Maoine**



Folio: CE28054

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.orai.ie.

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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

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 the 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.

