



COMHAIRLE CLARE
CONTAE AN CHLÁIR COUNTY COUNCIL

Registered Post

Tim Durkin
48 John Paul Avenue
Cloughleigh
Ennis
Co. Clare
V95 H9DY

2nd October 2025

Section 5 referral Reference R24-93 – Tim Durkin

Is the construction of a lean-to shed for storage of animal food/fencing supplies/ cleaning of horses for transport and a 20ft container development, and if so, is it exempted development?

A Chara,

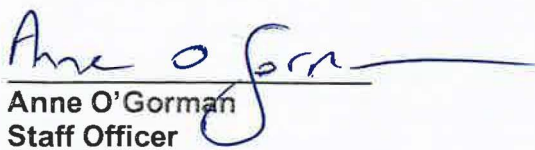
I refer to your application received on 3rd December 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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 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.

Advice Note: the additional questions raised within the Further Information Response have not been considered and should be submitted as a separate Section 5 referral or included as part of any application for development on this land.

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.: R24-93



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R24-93

Is the construction of a lean-to shed for storage of animal food/fencing supplies/ cleaning of horses for transport and a 20ft container development, and if so, is it exempted development?

AND WHEREAS, Tim Durkin 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) Classes 6 and 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended; and
- (d) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

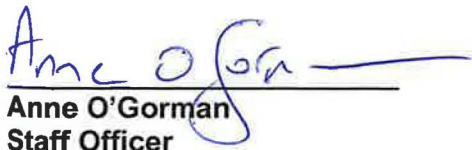
- (a) The construction of an agricultural shed development at Feighroe, Connolly, Co. Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) Based on the details as submitted with the referral to date, the Planning Authority are not satisfied that the lands are used for agricultural purposes, and no written consent was provided from the neighbouring resident within 100m of the referenced structures. Therefore, the development does not meet the conditions and limitations set out within the scope of Class 6 or Class 9, Parts 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) There are no other exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations 2001, as amended, by which the construction of the sheds/structures constitute exempted development.

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 an agricultural lean-to shed for animal feed, fencing supplies and cleaning of horses for transport along with a 20ft container

at the subject site at Feighroe, Connolly, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

Planning permission will be required to regularise the works carried out to date as described above.

A handwritten signature in blue ink, appearing to read 'Anne O'Gorman', is written over a horizontal line.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

2nd October 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: 86 393

Reference Number: R24-93

Date Referral Received: 3rd December 2024

Date Further Information Received: 12th September 2025

Name of Applicant: Tim Durkin

Location of works in question: Feighroe, Connolly, Co. Clare

Section 5 referral Reference R24-93 – Tim Durkin

Is the construction of a lean-to shed for storage of animal food/fencing supplies/ cleaning of horses for transport and a 20ft container 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) Classes 6 and 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended; and
- (d) The works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of an agricultural shed development at Feighroe, Connolly, Co. 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) Based on the details as submitted with the referral to date, the Planning Authority are not satisfied that the lands are used for agricultural purposes, and no written consent was provided from the neighbouring resident within 100m of the referenced structures. Therefore, the development does not meet the conditions and limitations set out within the scope of Class 6 or Class 9, Parts 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) There are no other exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations 2001, as amended, by which the construction of the sheds/structures constitute exempted development.

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 Garreth 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, Garreth Ruane, Senior Executive Planner, hereby declare that the construction of an agricultural lean-to shed for animal feed, fencing supplies and cleaning of horses for transport along with a 20ft container at the subject site at Feighroe, Connolly, Co. Clare is considered development which is not exempted development and planning permission will be required to regularise the works carried out to date as described above.

Signed:



GARRETH RUANE
SENIOR EXECUTIVE PLANNER



Date:

2nd October 2025

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R24-93
APPLICANT(S):	Tim Durkin, 48 John Paul Avenue, Cloughleigh, Ennis
REFERENCE:	Is the construction of a lean-to shed for storage of animal food/fencing supplies/cleaning of horses for transport and a 20ft container at Feighroe, Connolly, Co. Clare development, and if so, is it exempted development?
LOCATION:	Feighroe, Connolly, Co. Clare
DUE DATE:	02/10/2025

Site Location

The subject site is located in Feighroe, Connolly, north of the L-82842 Local Tertiary Road (Bealcragga Rd) and south of the R474 road. It is located on greenfield lands which are unzoned and immediately south of lands zoned 'Existing Residential' in the Clare County Development Plan 2023-2029 at to the rear of the site. The site comprises a vacant greenfield site, which is accessed to the south via the L-82842 Local Tertiary Road. The area largely comprises undeveloped lands with single dwellings to the north and west.

The site is within an area of High groundwater vulnerability, the Cullenagh River Farmlands Landscape Character Area and within a Rural Area Under Strong Urban Pressure.

It is not located in or near any Architectural Conservation Area, any Protected Structures or Recorded Monuments. It is not located within any European Site designations; however, the site is located approximately 9.4km west of the Pouladatig Cave SAC.

Recent Planning History

On-site:

None. Pre-Planning carried out (PPI24-253).

UD25-055 – Warning Letter issued for works carried out on site.

Immediately west:

- **03/1516**– Carol Sylvester – to construct a dwellinghouse and septic tank. **Incomplete Application.**
- **99/1399** – C. Sylvester – to construct a dwelling house, septic tank and percolation area (previous P95/272 and P96/1198). **Granted Permission.**
- **96/1198** – Eugene Baker – change of plans to construct a bungalow. **Deemed Withdrawn**
- **95272** – Eugene and Eileen Baker – Permission to construct dwelling house and septic tank. **Granted Permission.**

Background to Referral

This referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Tim Durkin.

The applicant is seeking a Section 5 Declaration as to whether the construction of an agricultural lean-to shed for animal feed, fencing supplies and cleaning of horses for transport along with a 20ft container at Feigheroe, Co. Clare is development, and if so, is it exempted development.

The applicant had stated that the works comprise the construction of an open fronted (10mx3m) shed for storage and agricultural use, along with the installation of a 20ft container, for which no details in respect of size or area had initially been provided, with no heights for either structure have been provided. It is stated that the units are less than 200sqm and is noted that the development is within 100m of the dwelling to the west. It was initially stated that the referrer has received consent from the neighbouring landowner, however, no evidence of this has been provided.

It is stated that this shed is proposed to be utilised temporarily on site, with the intention of seeking planning permission in the future for permanent stables and storage on the site. It was also noted that no cladding has been placed on the structure as of yet.

Further Information was requested from the applicant on 20th December 2024, and was responded to on 12th September 2025. The following items were requested:

- (1) Details of the height, width, depth and area of each structure,
- (2) Distance to the roadside boundary from each structure, demonstrating whether within 10m of the road or further,
- (3) Distance to the neighbouring dwellings of each structure,
- (4) Express written consent from the owner, and occupier if different, of the neighbouring dwellings within 100m of the structures.

In the response dated 12th September, the referrer provided a revised layout plan indicating sheds totaling approximately 148sqm of shed floorspace, to a maximum height of 3m. It is indicated that the sheds are located approximately 40m to the nearest dwelling and 50m from the public road. It is noted that the applicant has not provided any consent from the neighbouring landowner in their response.

This response also included details which the applicant seeks clarification on, which include:

- whether a storage container and shed can be used for agricultural use,
- the widening of the existing entrance to improve safe access to the site can be carried out,
- the improvement of natural drainage to restore the land for productive and sustainable agricultural use,
- general works to make the land usable for farming purposes,
- the provision of safe keeping, loading, and unloading of horses for farrier services and general care

It is stated that the works are essential to bring previously unusable lands into productive agricultural use to support responsible equestrian activities which are carried out in an environmentally sensitive manner.

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.2 of the Act includes a definition of 'agriculture' which "*includes, 'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur or for the purpose of its use in the farming of land), the training of*

horses and the rearing of bloodstock, the use of the land as grazing lands, meadow land, osier land, market gardens and nursery grounds and agricultural shall be constructed accordingly"

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.

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

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

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 1 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 1 opposite the mention of that class in the said column 1.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 6

Agricultural Structures

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

Conditions and Limitations:

1. No such structure shall be used for any purpose other than the purpose of agriculture.
2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
5. No such structure within 100 metres of any public road shall exceed 8 metres in height.
6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential

building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.

7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

Schedule 2, Part 3, Class 9

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

Conditions and Limitations:

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.
2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.
3. No such structure shall be situated within 10 metres of any public road.
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure

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,

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

(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,

(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,

(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.

(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

Basis of Referral

The applicants are seeking a Section 5 Declaration as to whether the construction of an agricultural shed and placement of a 20ft container on the land at Feigheroe, Connolly, Co. Clare is development, and if so, is it exempted development.

It is noted that additional questions have been raised in the Further Information response, however, such works as land reclamation, earth berms, and entrance upgrades were not part of the initial Section 5 Declaration and are not, therefore, considered in this referral. A separate section 5 referral would be required to address these queries.

Planning and Development Act, 2000 (as amended)

In accordance with Sections 2 and 3(1) of the Planning and Development Act 2000 (as amended) (hereafter referred to as 'the Act'), the items listed above do fall under the definition of 'works' and are, resultingly, characterised as 'development'.

Section 4 (1) (a) refers to the exempted development for buildings associated for the purposes of agricultural as being occupied together with land so used for agriculture or forestry. From a review of the information submitted and available online details, the works described in this section 5 referral are not aligned with the actual works ongoing on site, noting the updated aerial view imagery of the site from April 2025 which indicates a large cleared area on the subject site. Further, it is noted that there is an ongoing unauthorised development file open on the subject site and it is clear that works beyond an agricultural nature are ongoing on this subject site.



Figure 1: Google Earth Image of Site - Imagery Capture Dated 5th April 2025

The definition of agriculture, as per the Act, refers to the activity on the lands and, in my opinion any such buildings permitted for agricultural are to be linked to an agricultural activity. It cannot be assumed that a shed within a rural area is intrinsically linked to agricultural activity as defined above in the Act. However, the use of the land as per the available imagery and unauthorised development file, provides clear indication that the

subject lands are not currently used for agricultural purposes, and rather appear to be commercial in nature, noting a number of vehicles on-site and evidence of vehicle repairs and storage, etc, noted on site.

Having regard to the information provided I am satisfied that the referenced sheds are not considered to be agricultural structures and I note that the sheds proposed on the subject site, at this time, would not relate to agricultural undertakings.

Proposed Agricultural Shed:

Despite the above determination that the subject shed cannot be considered as an agricultural structure, Classes 6 and 9 of Class 9 of Schedule 2, Part 3 of the Regulations relate to exempted development for agricultural buildings/structures. It is noted that the development relates to the storage of agricultural related items and the cleaning of horses, with no housing of horses expressly proposed, therefore an assessment of Classes 6 and 9 of Schedule 2, Part 3 of the Regulations are set out as follows:

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 6

Agricultural Structures

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

The revised layout plan submitted indicates a number of sheds totalling approximately 148sqm of space, which is below the 200sqm maximum. However, it is noted that the conditions and limitations of this development are not met, as outlined below.

Conditions and Limitations:

1. No such structure shall be used for any purpose other than the purpose of agriculture.

While it was initially stated that the use of the shed is for agricultural purposes, it is clear that the current nature of the site is not being used for agricultural purposes, and no existing sheds are being used for such purposes.

2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.

Previously, the lean-to shed was stated to be 30sqm, and while no area of the storage container is provided, it is clear from the revised plan that the total floor area of the sheds is 148sqm, with the container measuring at approximately 32sqm. It is unclear whether there are any additional sheds on the site, however, from the information available, such are less than 300sqm.

3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.

No effluent storage proposed.

4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.

It is stated that the sheds are approximately 50m from the public road.

5. No such structure within 100 metres of any public road shall exceed 8 metres in height.

It is stated that the maximum height of the sheds is 3m.

6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.

It is stated that the structures are within 40m of the neighbouring dwelling to the west and no permission has been given by the owner of this dwelling.

7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

No updated details of cladding or painting have been provided.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 9

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

While the shed is stated to be for storage and the cleaning of horses, it is clear that this is not the active use of the site and no agricultural works are being carried out.

There are conditions and limitations attached to this exemption, which are assessed as follows:

1. *No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*

It is proposed to be used for agricultural purposes relating to an equine use, however, it is clear noting aerial imagery and the unauthorised development findings that this land is not being used for agriculture or forestry.

2. *The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*

Detail of approximately 180sqm of structures has been provided, however, it is noted that the subject site is not a farmyard complex or part thereof.

3. *No such structure shall be situated within 10 metres of any public road.*

It is stated that the sheds are approximately 50m from the public road.

4. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*

It is stated that the maximum height of the sheds is 3m.

5. *No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*

It is stated that the structures are within 40m of the neighbouring dwelling to the west and no permission has been given by the owner of this dwelling.

6. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

No updated details of cladding or painting have been provided.

It is considered that the ongoing works on site are not related to agriculture or farming of the land. Further, noting that no written consent has been provided from the neighbouring dwelling within 100m of the site, the outlined works are not exempted under the above referenced classes as outlined in the Planning and Development Regulations 2001 (as amended).

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

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

The proposal does not contravene a condition of any previous permission.

- (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,*

N/A.

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

The access to the site has been widened, and it is noted that larger vehicles have been entering the site, resulting in a traffic hazard and obstruction on the public road.

- (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.*

The site comprises greenfield, unzoned, lands located south of the Connolly settlement boundary and the rural area under strong urban pressure. The apparent works carried out and the volume of works outlined by this referral does interfere with the character of the landscape, which is within the Cullenagh River Farmlands Landscape Character Area and within a Rural Area Under Strong Urban Pressure

- (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,*

N/A

- (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,*

N/A

- (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,

N/A

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

The works subject to the Section 5 referral would not likely result in any significant effect on the integrity of a European Site, however, the works carried out on site appear to be greater than those described by the subject section 5 referral and may require further assessment.

- 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."*

N/A.

- (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,*

Works on the subject site appear to be unauthorised, and therefore, the construction of agricultural sheds would be on lands with ongoing unauthorised development.

- (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,*

N/A.

- (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,*

N/A.

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

N/A.

- (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.*

N/A

Recommendation

The following questions have been referred to the Planning Authority:

Whether the construction of an agricultural lean-to shed for animal feed, fencing supplies and cleaning of horses for transport along with a 20ft container at Feigheroe, Co. Clare is development, and if so, is it exempted development.

Further questions in respect of the widening of the access and land reclamation/drainage improvements were further raised, however, such would require a separate Section 5 Declaration.

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) Classes 6 and 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended; and
- (d) The works as indicated in submitted documents from the referrer.

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

- (a) The construction of an agricultural shed development at Fiegheroe, Connolly, Co. 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) Based on the details as submitted with the referral to date, the Planning Authority are not satisfied that the lands are used for agricultural purposes, and no written consent was provided from the neighbouring resident within 100m of the referenced structures. Therefore, the development does not meet the conditions and limitations set out within the scope of Class 6 or Class 9, Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) There are no other exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations 2001, as amended, by which the construction of the sheds/structures constitute exempted development.

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of an agricultural lean-to shed for animal feed, fencing supplies and cleaning of horses for transport along with a 20ft container at the subject site in Feigheroe, Co. Clare, is development and is not exempted development, and planning permission will be required to regularise the works carried out to date as described above.



Áine Bourke

Executive Planner

Date: 01/10/2025



Gareth Ruane

Senior Executive Planner

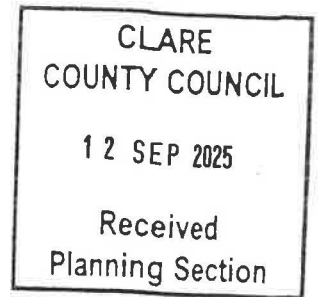
Date: 02/10/25

- Advice Note: the additional questions raised within the Further Information Response have not been considered and should be submitted as a separate Section 5 referral or included as part of any application for development on this land.

Tim Durkin
Feighroe, Connolly, Co. Clare

Date: 12/9/25

Planning Department
Clare County Council
New Road
Ennis, Co. Clare



Re: Section 5 Declaration Application – Feighroe, Connolly, Co. Clare

Dear Sir/Madam,

I am writing to formally submit an application under Section 5 of the Planning and Development Act 2000 (as amended) for a declaration as to whether certain works proposed on my land at Feighroe, Connolly, Co. Clare, would constitute exempted development.

When I purchased this land, it was in a severely waterlogged condition and entirely unsuitable for agricultural use, including grazing. Over time, I have undertaken considered and environmentally responsible improvements to restore the land to usable agricultural standards. These improvements are designed to be sensitive to the natural drainage and local ecology of the area, while maintaining a low visual impact.

The works I seek clarification on include:

Siting of one storage container and attached shed for agricultural use.

Widening of the existing entrance to improve safe access to the site.

Improvement of natural drainage to restore the land for productive and sustainable agricultural use.

General works to make the land usable for farming purposes in an eco-friendly and considerate manner.

Provision for the safe keeping, loading, and unloading of horses for farrier services and general care.

Importantly, the proposed works benefit from natural screening: existing topsoil on the site has been used to create berms, providing effective screening from the road and neighbouring properties in an environmentally responsible way, blending seamlessly with the surrounding landscape.

I respectfully submit that these works are essential to bring previously unusable land into productive agricultural use, support responsible equestrian activity, are carried out in an environmentally sensitive manner, and should be considered exempted development.

I would be grateful if Clare County Council could process this application and issue a Section 5 declaration confirming the exempted status of these works.

Yours faithfully,

Tim Durkin

A handwritten signature in black ink, appearing to read 'T Durkin', written in a cursive style.

To Whom It May Concern,

I hereby submit this declaration under **Section 5 of the Planning and Development Act 2000 (as amended)** in respect of works undertaken on my agricultural holding.

1. Agricultural Shed

A modest agricultural shed has been constructed for the storage of feed, hay, and farm machinery required for the operation and maintenance of the holding. The shed is used exclusively for agricultural purposes and not for habitation or non-agricultural commercial activity.

2. Shipping Container

A standard shipping container is located on the holding, used solely for agricultural storage, including tools, equipment, and materials essential for the land's operation. It is positioned to minimize visual impact and is partially screened by the landscaped earth berms described below.

3. Earth Berms and Landscaping

Topsoil removed during site preparation was reused to create low-profile earth berms around the shed and container. These berms have been seeded with grass and contoured to:

- Provide visual screening from the public road;
- Enhance ecological value through potential planting of native hedgerows or grasses;
- Demonstrate responsible land management by reusing all excavated material on-site.

4. Land Drainage Improvements

The land was previously waterlogged and largely unusable for grazing. Drainage improvements were carried out in line with natural water flows, without artificial channels or negative impact on adjoining lands. These works restored the land to productive agricultural use, supporting sustainable grazing and crop growth while protecting soil health.

5. Entrance Upgrade

An existing agricultural entrance onto the public road was upgraded and marginally widened to allow safe access for farm machinery. The upgrade ensures that the entrance is suitable for modern agricultural use, reduces road safety risks, and does not create a new access point.

6. Overall Justification and Context

All works have been undertaken with sustainability, ecological sensitivity, and responsible agricultural practice in mind. The developments:

- Support productive use of previously unworkable land;
- Minimize visual impact through natural screening and low-profile siting;
- Enhance safety and functionality of the land and access points;
- Are entirely agricultural in purpose and consistent with the use of the holding.

It is my respectful request that the planning authority issue a declaration confirming which elements are exempt and which require planning permission, as appropriate.



NATURAL SCREENING
SEEDED WITH GRASS

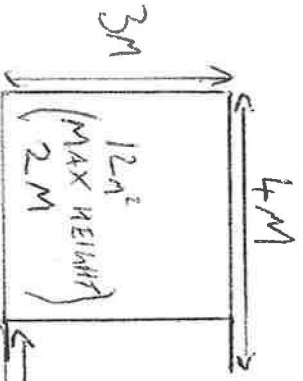
BERM FROM TOP SOIL

APPROX 40M TO NEIGHBOURS HOUSE

50M
↓
TO ROAD

STANDARD DIMENSION 20FT
CONTAINER

CONTAINER



40m^2

8m

5m

6m

(MAX HEIGHT 3M)

96m^2

12m

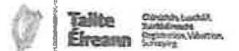
8m

5M
TO
BOUND

Folio Number: CE40058F

Application Number: P2024LR091735J

520990 mE, 676180 mN



Folio: CE40058F

This map should be read in conjunction with the folio.

Taithe Éireann (TÉ) Registration mapping is based on TĒ Surveying mapping. Where TĒ Registration maps are printed at a scale that is larger than the TĒ Surveying scale, accuracy is limited to that of the TĒ Surveying map scale.

For details of the terms of use and limitations of scale, accuracy and other conditions relating to TĒ Registration maps, see www.taithe.ie.

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(centre-line of passage) edged

Freehold

Leasehold

SubLeasehold

Burdens (may not all be represented on map)

Right of Way / Wayleave

Turbary

Pipeline

Well

Pump

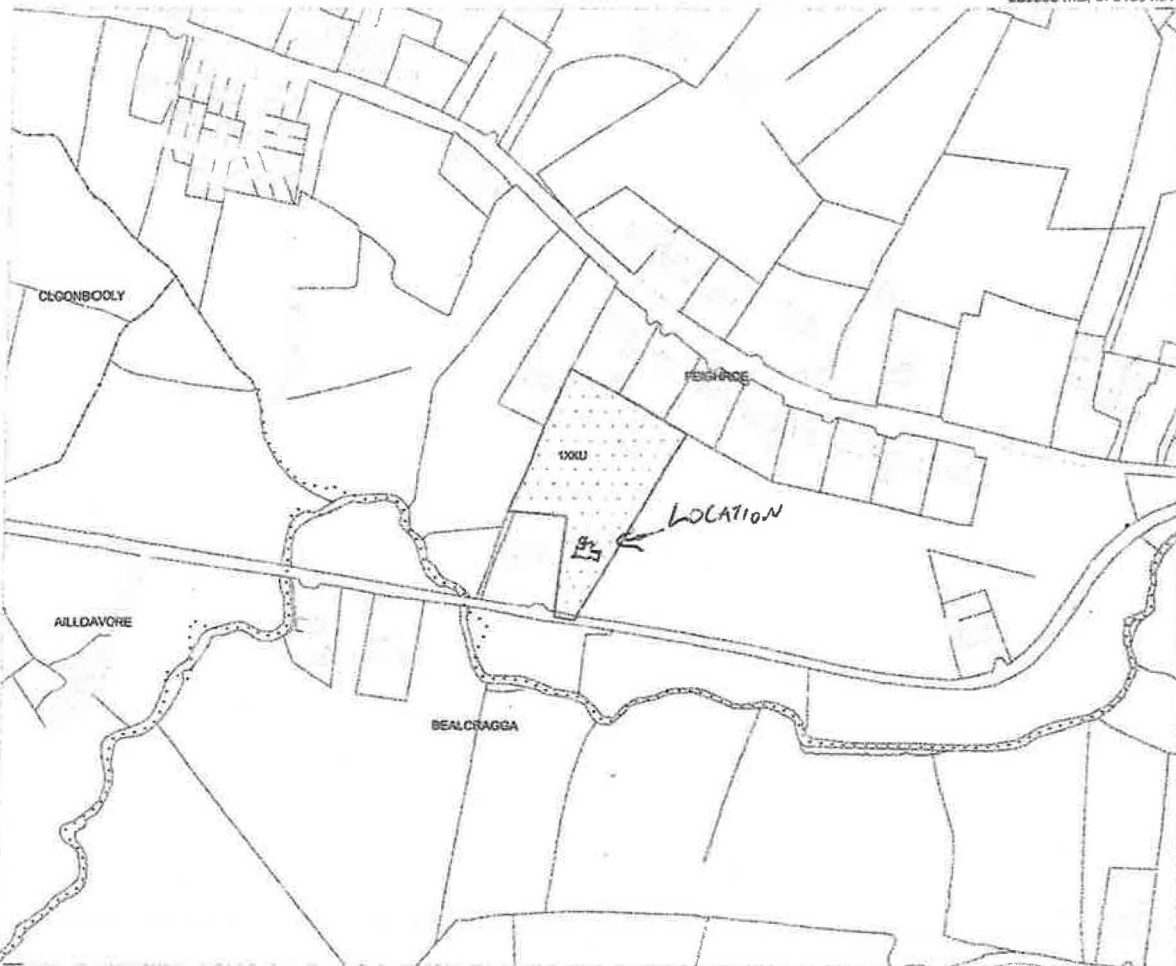
Septic Tank

Soak Pit



A full list of burdens and their symbology can be found at www.landdirect.ie

Taithe Éireann Registration operates a non-conclusive boundary system. The TĒ Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a TĒ Registration map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1954). As amended by Section 62 of the Registration of Deeds and Title Act 2006.



520180 mE, 676530 mN
Date Printed: 25/07/2024

Creation Date: 25 July 2024 11:45:20

Application Number: P2024LR091735J

1:2500 Scale Page 5 of 6



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Tim Durkin
48 John Paul Avenue
Cloughleigh
Ennis
Co. Clare
V95 H9DY

20/12/2024

Section 5 referral Reference R24-93 – Tim Durkin

Is the construction of a lean-to shed for storage of animal food/fencing supplies/ cleaning of horses for transport and a 20ft container development, and if so, is it exempted development?

A Chara,

I refer to your application received on 3rd December 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 details as submitted with this Section 5 Referral application, the following further information is required to allow for a full assessment of this referral:

- (1) Details including drawings of the height, width, depth and area of each structure,
- (2) Distance to the roadside boundary from each structure, demonstrating whether within 10m of the road or further,
- (3) Distance to the neighbouring dwellings of each structure,
- (4) Express written consent from the owner, and occupier if different, of the neighbouring dwellings within 100m of the structures.

Please submit these details to allow for continued assessment of this Section V Referral.

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



QUALITY
ISO 9001:2015
NSAI Certified

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R24-93
APPLICANT(S):	Tim Durkin, 48 John Paul Avenue, Cloughleigh, Ennis
REFERENCE:	Is the construction of a lean-to shed for storage of animal food/fencing supplies/cleaning of horses for transport and a 20ft container at Feighroe, Connolly, Co. Clare development, and if so, is it exempted development?
LOCATION:	Feighroe, Connolly, Co. Clare
DUE DATE:	8 th January 2025

Site Location

The subject site is located in Feighroe, Connolly, north of the L-82842 Local Tertiary Road (Bealcragga Rd) and south of the R474 road. It is located on greenfield lands which are unzoned and immediately south of lands zoned 'Existing Residential' in the Clare County Development Plan 2023-2029 at to the rear of the site. The site comprises a vacant greenfield site, which is accessed to the south via the L-82842 Local Tertiary Road. The area largely comprises undeveloped lands with single dwellings to the north and west.

The site is within an area of High groundwater vulnerability, the Cullenagh River Farmlands Landscape Character Area and within a Rural Area Under Strong Urban Pressure.

It is not located in or near any Architectural Conservation Area, any Protected Structures or Recorded Monuments. It is not located within any European Site designations; however, the site is located approximately 9.4km west of the Pouladatig Cave SAC.

Recent Planning History

On-site:

None. Pre-Planning carried out (PPI24-253).

Immediately west:

- **03/1516**– Carol Sylvester – to construct a dwellinghouse and septic tank. **Incomplete Application.**
- **99/1399** – C. Sylvester – to construct a dwelling house, septic tank and percolation area (previous P95/272 and P96/1198). **Granted Permission.**
- **96/1198** – Eugene Baker – change of plans to construct a bungalow. **Deemed Withdrawn**
- **95272** – Eugene and Eileen Baker – Permission to construct dwelling house and septic tank. **Granted Permission.**

Background to Referral

This referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Tim Durkin.

The applicant is seeking a Section 5 Declaration as to whether the construction of an agricultural lean-to shed for animal feed, fencing supplies and cleaning of horses for transport along with a 20ft container at Feigheroe, Co. Clare is development, and if so, is it exempted development.

The applicant has stated that the works comprise the construction of an open fronted (10mx3m) shed for storage and agricultural use, along with the installation of a 20ft container, for which no details in respect of size or area have been provided. No heights for either structure have been provided to date. It is stated that the units are less than 200sqm and is within 100m of the dwelling to the west. It is stated that the referrer has received consent from the neighbouring landowner, however, no evidence of this has been provided.

It is stated that this shed is proposed to be utilised temporarily on site, with the intention of seeking planning permission in the future for permanent stables and storage on the site. It is also noted that no cladding has been placed on the structure as of yet, however,

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.2 of the Act includes a definition of 'agriculture' which "*includes, 'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of the land as grazing lands, meadow land, osier land, market gardens and nursery grounds and agricultural shall be constructed accordingly*"

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.

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

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

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 1 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 1 opposite the mention of that class in the said column 1.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 6

Agricultural Structures

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

Conditions and Limitations:

1. No such structure shall be used for any purpose other than the purpose of agriculture.
2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
5. No such structure within 100 metres of any public road shall exceed 8 metres in height.
6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

Schedule 2, Part 3, Class 9

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

Conditions and Limitations:

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.
2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.
3. No such structure shall be situated within 10 metres of any public road.
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure

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,

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

(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,

(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,

(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.

(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

Basis of Referral

The applicants are seeking a Section 5 Declaration as to whether the construction of an agricultural shed and placement of a 20ft container on the land at Feigheroe, Connolly, Co. Clare is development, and if so, is it exempted development.

Planning and Development Act, 2000 (as amended)

In accordance with Sections 2 and 3(1) of the Planning and Development Act 2000 (as amended) (hereafter referred to as 'the Act'), the items listed above do fall under the definition of 'works' and are, resultingly, characterised as 'development'.

Section 4 (1) (a) refers to the exempted development for buildings associated for the purposes of agricultural as being occupied together with land so used for agriculture or forestry. From a desk-based review of the information submitted and available online details, the proposed location of the sheds do not appear to be connected with any existing agricultural activity on the site, however, it is stated that the referrer has recently purchased the site and intends to seek planning permission in the future for permanent stables and storage sheds. The definition of agriculture, as per the Act, refers to the activity on the lands and, in my opinion any such buildings permitted for agricultural are to be linked to an agricultural activity. It cannot be assumed that a shed within a rural area is intrinsically linked to agricultural activity as defined above in the Act. However, the use of the land for agricultural is not in question, but rather the erection of an agricultural shed. I consider this section of the act to allow for the use of existing buildings for agricultural purposes and not expressly for the development of new buildings for the purpose of agriculture.

Having regard to the information provided I am satisfied that the shed can be considered an agricultural structure, however, I note that this does not provide an express exemption for any such development on the site relating to new agricultural structures.

Proposed Agricultural Shed:

Further to the above determination that the shed can be considered as an agricultural structure, Classes 6 and 9 of Class 9 of Schedule 2, Part 3 of the Regulations relate to exempted development for agricultural buildings/structures. It is noted that the development relates to the storage of agricultural related items and the cleaning of horses, with no housing of horses expressly proposed, therefore an assessment of Classes 6 and 9 of Schedule 2, Part 3 of the Regulations are set out as follows:

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 6

Agricultural Structures

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

While the shed is stated to be for storage and the cleaning of horses, it is not proposed to house them for an extended period of time. However, I note that it may be used to house them temporarily while cleaning. The shed is open fronted and stated to be approximately 30sqm, well below the 200sqm requirement, with no

area provided for the 20ft container. This would likely be an acceptable use under this Class, however further information to confirm this, as set out below, will be required.

Conditions and Limitations:

1. No such structure shall be used for any purpose other than the purpose of agriculture.

It is proposed to be used for agricultural purposes relating to an equine use.

2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.

There are no other noted agricultural buildings on site. The lean-to shed is stated to be 30sqm, and while no area of the storage container is provided, it is unlikely that together the structures would be greater than 300sqm in total, however, further information can be requested to provide the full dimensions of the structures.

3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.

No effluent storage proposed.

4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.

No details of the distance of the structures from the public road have been provided. Same can be requested by way of Further Information.

5. No such structure within 100 metres of any public road shall exceed 8 metres in height.

No details in respect of height of the structures have been provided. Same can be requested by way of Further Information.

6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.

It is stated that the structures are within 100m of the neighbouring dwelling to the west and that permission was given by the owner of this dwelling, however, no evidence of this has been provided. Same can be requested by way of Further Information.

7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

The structures are not yet clad, with the referrer referencing waiting to clad the structure when the weather improves and access is obtained. The referrer can be made aware of this requirement.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 9

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

While the shed is stated to be for storage and the cleaning of horses, it is not proposed to house them for an extended period of time. However, I note that it may be used to house them temporarily while cleaning. The shed is open fronted and stated to be approximately 30sqm, well below the 300sqm requirement, with no area provided for the 20ft container. This would likely be an acceptable use under this Class, however further information to confirm this, as set out below, will be required.

There are conditions and limitations attached to this exemption, which are assessed as follows:

1. *No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*

It is proposed to be used for agricultural purposes relating to an equine use. It is not stated to store effluent or house horses/animals.

2. *The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*

There are no other noted agricultural buildings on site. The lean-to shed is stated to be 30sqm, and while no area of the storage container is provided, it is unlikely that together the structures would be greater than 300sqm in total, however, further information can be requested to provide the full dimensions of the structures.

3. *No such structure shall be situated within 10 metres of any public road.*

No details of the distance of the structures from the public road have been provided. Same can be requested by way of Further Information.

4. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*

No details in respect of height of the structures have been provided. Same can be requested by way of Further Information.

5. *No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*

It is stated that the structures are within 100m of the neighbouring dwelling to the west and that permission was given by the owner of this dwelling, however, no evidence of this has been provided. Same can be requested by way of Further Information.

6. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

The structures are not yet clad, with the referrer referencing waiting to clad the structure when the weather improves and access is obtained. The referrer can be made aware of this requirement.

Further detail is required to confirm whether the shed are compliant with the conditions and limitations as set out above, in respect of height, area, distance from public road and written consent from the neighbouring landowner/occupier.

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

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

The proposal does not contravene a condition of any previous permission.

- (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,*

N/A.

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

There is an existing agricultural access at this location, therefore no anticipated traffic hazard, obstruction or endangerment of public safety.

- (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.*

The site comprises greenfield, unzoned, lands located south of the Connolly settlement boundary and the rural area under strong urban pressure. The location of the subject sheds would not interfere with the character of the landscape, view or prospect of special amenity value or special interest preserved within the development plan.

- (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,*

N/A

- (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,*

N/A

- (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,*

N/A

- 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,

No likely significant effects on European Sites.

- 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."*

N/A.

- (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,*

N/A

- (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,*

N/A. There are no existing sheds noted on the Site Layout 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,*

N/A.

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

N/A.

- (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.*

N/A

Recommendation

The following questions have been referred to the Planning Authority:

Whether the construction of an agricultural lean-to shed for animal feed, fencing supplies and cleaning of horses for transport along with a 20ft container at Feigheroe, Co. Clare is development, and if so, is it 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) Classes 6 and 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended; and
- (d) The works as indicated in submitted documents from the referrer.

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

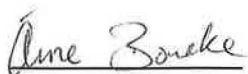
- (a) The construction of an agricultural shed development at Fiegheroe, Connolly, Co. Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) Based on the details as submitted with the referral to date, the Planning Authority are not clear whether the proposed development meets the conditions and limitations set out within the scope of Class 6 or Class 9, Parts 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) In the event that the development would fall within the scope of Class 9, Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, Further Information is required in respect of compliance with condition and limitation no.'s 2, 4, 5 and 6,
- (e) There are no other exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations 2001, as amended, by which the construction of the sheds/structures constitute exempted development.

Having regard to the details as submitted with this Section V Referral application, the following **Further Information** is required to allow for a full assessment of this referral:

including drawings

- (1) Details of the height, width, depth and area of each structure,
- (2) Distance to the roadside boundary from each structure, demonstrating whether within 10m of the road or further,
- (3) Distance to the neighbouring dwellings of each structure,
- (4) Express written consent from the owner, and occupier if different, of the neighbouring dwellings within 100m of the structures.

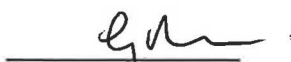
Please submit these details to allow for continued assessment of this Section V Referral.



Áine Bourke

Executive Planner

Date: 20/12/2024



Gareth Ruane

Senior Executive Planner

Date: 20/12/24



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Tim Durkin
48 John Paul Avenue
Cloughleigh
Ennis
Co. Clare
V95 H9DY

04/12/2024

Section 5 referral Reference R24-93 – Tim Durkin

Is the construction of a lean-to shed for storage of animal food/fencing supplies/ cleaning of horses for transport and a 20ft container development, and if so, is it exempted development?

A Chara,

I refer to your application received on 3rd December 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



COMHAIRLE

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

03/12/2024 13:30:21

Receipt No. : L1CASH/0/372652

***** REPRINT *****

TIM DURKIN
48 JOHN PAUL AVENUE
CLOUGHLEIGH
ENNIS
CO. CLARE
V95 H9DY
R24-93

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

Total : 80.00 EUR

COMHAIRLE

Tendered :
Cash 100.00

Change : 20.00

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
Website: www.clarecoco.ie



Comhairle Contae an Chláir
Clare County Council

R24-93

**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

TIM DUNN

48 JOHN PAUL AVENUE

CLOUGHLEIGH

ENNIS, Co. CLARE

V95 HYDY

(b) Telephone No.:

(c) Email Address:

(d) Agent's Name and address:

**CLARE
COUNTY COUNCIL**

03 DEC 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?

CONSTRUCTION OF LEAN-TO SHED FOR STORAGE OF
 ANIMAL FOOD / FENCING SUPPLIES / CLEANING OF HORSES FOR
 TRANSPORT AND A 20FT CONTAINER IS PERMITTED DEVELOPMENT.

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

(OPEN FRONTED 10M X 3M)
 I PUT UP A SMALL SHED ↑ FOR STORAGE / AGRICULTURAL
 USE AS IN PREPARING LAND FOR HOUSING / GRAZING
 HORSES. I RESEARCHED ONLINE AND UNDERSTOOD
 THIS WAS PERMITTED DEVELOPMENT AS THE ONLY
 NEIGHBOUR WITHIN 100M DIDN'T HAVE A PROBLEM
 + GAVE PERMISSION, IT WAS WELL UNDER 200M²
 AND WITHIN ALL OTHER PARAMETERS / RESTRICTIONS AS
 PER GUIDELINES OF PERMITTED DEVELOPMENT, HOWEVER

[REDACTED]

- (c) List of plans, drawings etc. submitted with this request for a declaration: (I WILL BE APPLYING FOR PLANNING IN FUTURE FOR PERMANENT STABLES + STORAGE SITED THIS IS JUST WHILE I GET SET UP)
(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)

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	FEIGHROE CONNOLLY Co. CLARE (NO POST HERE)
(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 - NO SPECIAL CONDITIONS ETC.
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	OWNER
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	YES
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	NO
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	RECENTLY PURCHASED, NONE BY ME
(h) Date on which 'works' in question were completed/are likely to take place:	SHED IS PARTIALLY COMPLETED 1/12/ WAITING TO CLAD WHEN WEATHER/ACCESS IMPROVES

SIGNED:

T Dwyer

DATE:

03/12/24

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:

520990 mE, 676180 mN



Tailte Éireann
Clárúcháin, Luchdail, Sárthéiríocht
Registration, Valuation, Surveying

Folio: CE40058F

This map should be read in conjunction with the folio.

Tailte Éireann (TÉ) Registration mapping is based on TÉ Surveying mapping. Where TÉ Registration maps are printed at a scale that is larger than the TÉ Surveying scale, accuracy is limited to that of the TÉ Surveying map scale.

For details of the terms of use and limitations of scale, accuracy and other conditions relating to TÉ Registration maps, see www.tailte.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



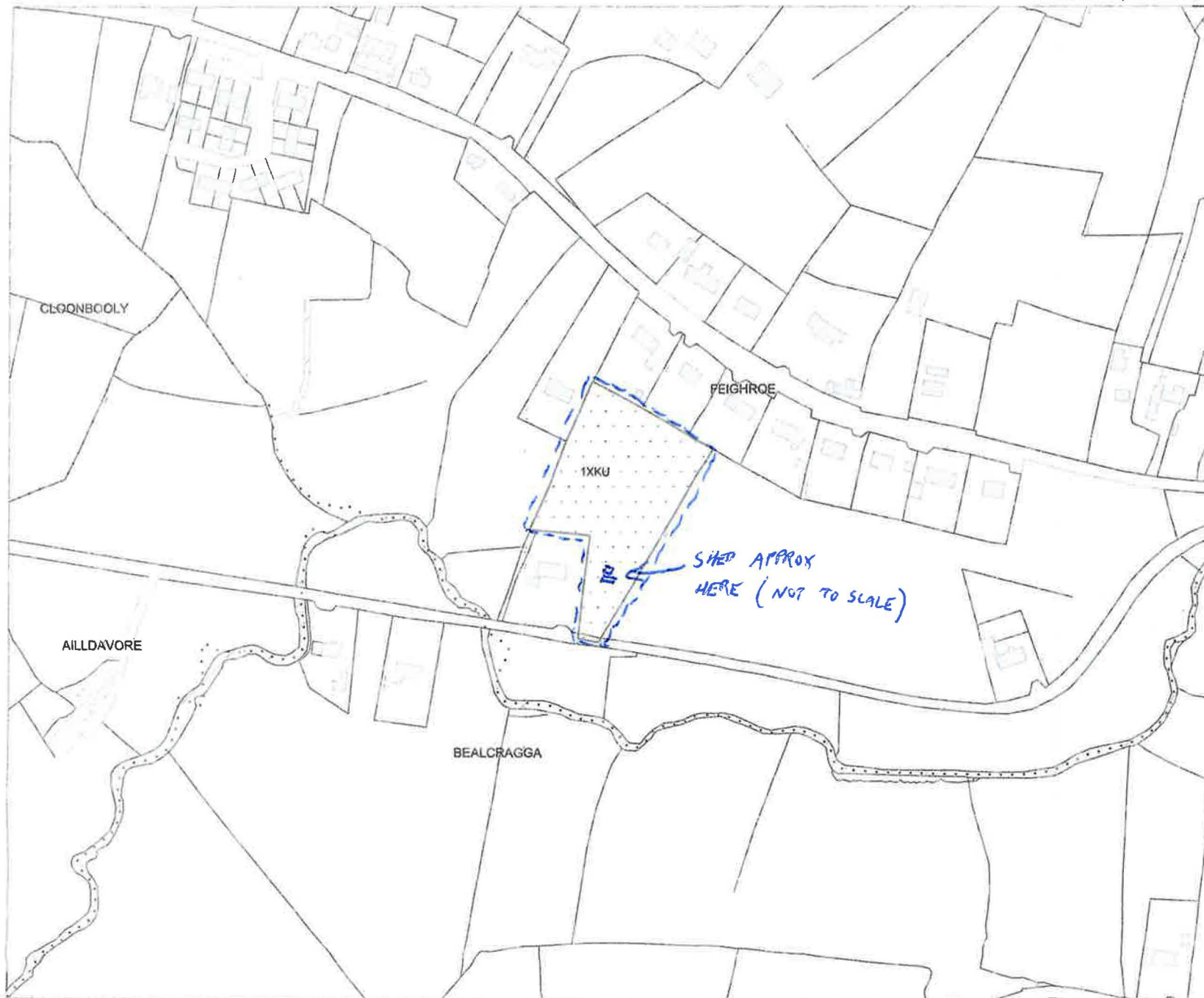
A full list of burdens and their symbology can be found at:
www.landdirect.ie

Tailte Éireann Registration operates a non-conclusive boundary system. The TÉ Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a TÉ Registration 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.

1:2500 Scale



Page 6 of 6



520190 mE, 675530 mN
Date Printed: 25/07/2024

Creation Date: 25 July 2024 11:45:20

Application Number: P2024LR091735J