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CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Desmond Hassett
Tuamgraney
Co. Clare

2nd December 2025

Section 5 referral Reference R25-91 – Desmond Hassett

Is the change of use of this building from office use to residential use development and if so, is it exempted development?

A Chara,

I refer to your application received on 5th November 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, Placemaking & Economic Development

An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach

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

Planning Department
Economic Development Directorate

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



CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No: 86758
Reference Number: R25-91
Date Referral Received: 5th November 2025
Name of Applicant: Desmond Hassett
Location of works in question: Tuamgraney, Co. Clare

Section 5 referral Reference R25-91 – Desmond Hassett

Is the change of use of this building from office use to residential use 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, 9 and 10 of the Planning and Development Regulations 2001, as amended;
- (c) The planning history of the site
- (d) The works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The change of use of the building from office use to residential use at Tuamgraney, Co. Clare constitutes "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (b) The said change of use of the building from office use to residential use at Tuamgraney, Co. Clare is not exempted development having regard to:
 - Article 10(1)(d) of the Planning and Development Regulations, 2001 (as amended): There is no record of a grant of planning permission for the use of the subject building as an office. The stated existing use of the building is therefore an unauthorised use.
 - Article 10(6)(d)(i) of the Planning and Development Regulations, 2001 (as amended). The development must commence and be completed during the relevant period. The relevant period expires on 31st December 2025. The documents submitted with the referral indicate that the development will be undertaken between February and August 2026. The proposed development will not be undertaken and completed within the relevant period.
 - In the absence of accurate, scale drawings showing existing and proposed floor plans and elevations of the subject building, it cannot be satisfactorily determined that the following criteria have been met:

- i. Article 10(6)(d)(ii) – the extent to which the external fabric and character of the building will be altered by the proposed works.
- ii. Article 10(6)(d)(vi) – whether the minimum floor area and minimum storage space requirements set out in “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities” will be met in the proposed residential unit.
- iii. Article 10(6)(d)(vii) – whether rooms for use, or intended for use as habitable rooms will have adequate natural lighting.

ORDER: Whereas by Chief Executive's Order No. HR 18 dated 7th October 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 change of use of the building from office use to residential use at Tuamgraney, Co. Clare is **considered development** which is **not exempted development**.

Signed:



GARRETH RUANE
SENIOR EXECUTIVE PLANNER



Date:

2nd December 2025

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

Reference No.: R25-91



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R25-91

Is the change of use of this building from office use to residential use development and if so, is it exempted development?

AND WHEREAS, Desmond Hassett 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, 9 and 10 of the Planning and Development Regulations 2001, as amended;
- (c) The planning history of the site.
- (d) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

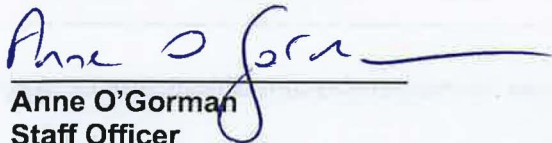
- (a) The change of use of the building from office use to residential use at Tuamgraney, Co. Clare constitutes "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (b) The said change of use of the building from office use to residential use at Tumagraney, Co. Clare is not exempted development having regard to:
 - o Article 10(1)(d) of the Planning and Development Regulations, 2001 (as amended). There is no record of a grant of planning permission for the use of the subject building as an office. The stated existing use of the building is therefore an unauthorised use.
 - o Article 10(6)(d)(i) of the Planning and Development Regulations, 2001 (as amended). The development must commence and be completed during the relevant period. The relevant period expires on 31st December 2025. The documents submitted with the referral indicate that the development will be undertaken between February and August 2026. The proposed development will not be undertaken and completed within the relevant period.
 - o In the absence of accurate, scale drawings showing existing and proposed floor plans and elevations of the subject building, it cannot be satisfactorily determined that the following criteria have been met:
 - i. Article 10(6)(d)(ii) – the extent to which the external fabric and character of the building will be altered by the proposed works.
 - ii. Article 10(6)(d)(vi) – whether the minimum floor area and minimum storage space requirements set out in "Sustainable Urban Housing: Design Standards

for New Apartments – Guidelines for Planning Authorities” will be met in the proposed residential unit.

iii. Article 10(6)(d)(vii) - whether rooms for use, or intended for use as habitable rooms will have adequate natural lighting.

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 change of use of the building from office use to residential use at Tuamgraney, 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, Placemaking & Economic Development

2nd December 2025

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

File Ref:	R25-91
Applicant:	Desmond Hassett
Proposal:	Whether the change of use a building from office use to residential unit is or is not development and is or is not exempted development.
Location:	Tuamgraney, Co. Clare
Due Date:	2 nd Decemeber 2025

Site Location:

The proposal site is located in Tuamgraney on land zoned Mixed Use. The subject building is a single-storey, free standing structure located in the grounds of a former public house and associated residence, on the north side of the R352. The building is an auctioneer's office.

Recent Planning History

P8/12495 C. Fennessy was granted permission for the construction of a public house, dwelling house and petrol pumps.

P91/1202 – Desmond Hassett was granted permission to construct an extension to public house, comprising function room, kitchen and site works.

P17/385 D. Hassett was granted permission for change of use of lounge area to restaurant, to extend bay, to include commercial kitchen, service area, stores, toilets and revised elevations.

Background to Referral

This Referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Desmond Hassett. He states that he is the owner of the property.

The applicant is seeking a Section 5 Declaration as to whether the change of use of a building from office use to residential use at Tumagraney, Co. Clare is or is not development and is or is not exempted development.

Clare County Development Plan 2023-2029

The site is located in Tuamgraney on land zoned Mixed Use.

Details Received

- Application form.
- Location Map
- Existing floor plan and drawing of the existing front elevation

Statutory Provisions

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

In order to assess this proposal, regard has been had to the *Planning and Development Act 2000, as amended*.

S.3.(1) In this Act, "*development*" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4(1)(H)

Section 4 (1)(H) states that the following shall be exempted development for the purpose of the Act.-

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

Planning & Development Regulations, 2001, as amended

Article 10 of the Planning and Development Regulations relates to Exempted Development and states:

Article 10.(1)

Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

Article 10(6) of the Planning and Development Regulations states:

(a) In this sub-article—

"habitable room" means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

"relevant period" means the period from 8 February 2018 until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 1.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d)

(i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall

(I) Primarily affect only the interior of the structure

(II) Retain 50 percent or more of the existing external fabric of the building

(III) Not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments —Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice —Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

Article 9 -Restrictions on Exemptions

Under Article 9 of the same Regulations, development to which Article 10 relates shall not be exempted development for the purposes of the Act:

if the carrying out of such development would –

(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,

(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,

Schedule 2, Part 4, Classes 1, 2, 3, 6 and 12 of the Planning and Development Regulations

CLASS 1

Use as a shop.

CLASS 2

Use for the provision of—

(a) financial services,

(b) professional services (other than health or medical services),

(c) any other services (including use as a betting office),

where the services are provided principally to visiting members of the public

CLASS 3

Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

CLASS 6

Use as a residential club, a guest house or a hostel (other than a hostel where care is provided).

CLASS 12

Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018

Assessment

Primary legislation

Having regard the details submitted it is considered that the proposal constitutes 'development' having regard to the definition of development which includes for making of any material change in the use of any structures.

In respect of Section 4 (1)(H) it is noted that while the section makes provision for development consisting for the carrying out of works for maintenance, improvement or other alterations of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures' to be considered exempted development, it does not expressly clarify that the internal alterations can result in a change of use and that this new use is exempted development.

The Regulations

Article 10 of the Planning and Development Regulations relates to Exempted Development and states:

Article 10(1)

Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

- (a) involve the carrying out of any works other than works which are exempted development,

See Article 10(1)(d) below

(b) contravene a condition attached to a permission under the Act,

Not applicable to the current proposal

(c) be inconsistent with any use specified or included in such a permission, or

Not applicable to the current proposal.

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

The subject building is a detached outbuilding in the grounds of a public house & residence. The building was most recently in use as an auctioneer's office (Class 2b use). However, there is no record of planning permission being sought for this building.

The drawings submitted with planning application P17/385 indicate that the subject building is a storage building. However, use of the building as an auctioneer's office was noted at the time. The Planner's Report States:

It is shown on the submitted site layout plan that there is an existing store on the site. Upon inspection of the site, it was noted that the existing store is in use as an auctioneer. It does not appear from the planning history that permission was granted for an auctioneers at this location: A condition will be included with regard to same.

Planning permission was subsequently granted and Condition 2 stated:

No development shall commence on the site unless and until the use of the structure identified as a "store" on the submitted drawings has ceased as an office and all auctioneer signage has been removed.

The development permitted under P17/385 was never carried out, and the unauthorised use of the building continued until the recent past.

The applicant proposes to change the use of this building from office use to residential use. The former office use was unauthorised. The proposed development would be a development where the existing use is an unauthorised use, and thereby is development which is not exempt development.

Article 10(6)

(a) In this sub-article—'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

'relevant period' means the period from the making of these Regulations until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 Part 4 of Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018. Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 13th February 2018.[30].

The structure has been in existence prior to the coming into effect of the amendment.

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12

The building was formerly used as an auctioneer's office. This is use Class 2b in Schedule 2, Part 4 of the Regulations.

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

No evidence of the duration of vacancy has been submitted with this referral. It is unclear if the proposal complies with this limitation of the exemption.

(d) (i) The development is commenced and completed during the relevant period.

The owner advises that they intend to carry out the work from February to August 2026. The relevant period expires on 31st December 2025. The proposed works will not be undertaken and completed within the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with subparagraph (vii), shall –

- (I) primarily affect the interior of the structure,
- (II) retain 50 per cent or more of the existing external fabric of the building, and
- (III) (III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

The applicant has not submitted drawings to illustrate the extent of the proposed works. The applicant has stated that he will not be carrying out any works that will materially or visually alter the building.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

Unclear in the absence of clear proposals for the building.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned..

There is no objective in the County Development Plan requiring the use of these buildings to remain unchanged.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

One residential unit is proposed.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

The applicant has not provided any drawings of the internal layout of the proposed residential unit. Compliance with the required standards cannot be assessed in the absence of clear plans for the building.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

Unknown at this time

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

The structure is not a protected structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

Not applicable to this proposal.

(x) No development shall relate to any structure in any of the following areas:

(i) an area to which a special amenity area order relates;

Not applicable.

(II) an area of special planning control;

Not applicable

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

Not applicable.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

The proposal complies with the above requirements.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

No information has been provided regarding the means of wastewater disposal from the property. However, based on the public infrastructure available in the area, a connection to the public sewer is likely.

(e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall accordingly notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure, and

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

Noted. No notification received to date.

Article 9

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 –

(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.

Not applicable

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

Not applicable.

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

Not applicable.

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

Having regard to the nature of the proposed development (change of use of existing development) and the location on zoned land within a settlement, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site.

Appropriate assessment is not therefore required.

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

Not applicable.

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

The use of this building as an auctioneer's office was unauthorised.

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

Not applicable.

c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,

Not applicable

(d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.

Not applicable

Conclusion

The proposal to which this notification relates is not in compliance with the Planning and Development Regulations 2001 (as amended).

The proposed development therefore constitutes development which is not 'exempted development'.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the change of use of the building from office use to residential use at Tuamgraney, 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, 9 and 10 of the Planning and Development Regulations 2001, as amended;
- (c) The planning history of the site
- (d) The works as indicated in submitted documents from the referrer.

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

- (a) The change of use of the building from office use to residential use at Tuamgraney, Co. Clare constitutes "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (b) The said change of use of the building from office use to residential use at Tuamgraney, Co. Clare is not exempted development having regard to:
 - o Article 10(1)(d) of the Planning and Development Regulations, 2001 (as amended). There is no record of a grant of planning permission for the use of the subject building as an office. The stated existing use of the building is therefore an unauthorised use.
 - o Article 10(6)(d)(i) of the Planning and Development Regulations, 2001 (as amended). The development must commence and be completed during the relevant period. The relevant period expires on 31st December 2025. The documents submitted with the referral indicate that the development will be undertaken between February and August 2026. The proposed development will not be undertaken and completed within the relevant period.
 - o In the absence of accurate, scale drawings showing existing and proposed floor plans and elevations of the subject building, it cannot be satisfactorily determined that the following criteria have been met:
 - i. Article 10(6)(d)(ii) – the extent to which the external fabric and character of the building will be altered by the proposed works.
 - ii. Article 10(6)(d)(vi) – whether the minimum floor area and minimum storage space requirements set out in "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" will be met in the proposed residential unit.
 - iii. Article 10(6)(d)(vii) - whether rooms for use, or intended for use as habitable rooms will have adequate natural lighting

Now therefore Clare County Council (Planning Authority), hereby decides that the change of use of the building from office use to residential use at Tuamgraney, Co. Clare is development and is not exempted development.

Signed


Executive Planner

Date:

01/12/2025

Signed


Senior Executive Planner

Date:

01/12/25



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Desmond Hassett
Tuamgraney
Co. Clare

07/11/2025

Section 5 referral Reference R25-91 – Desmond Hassett

Is the change of use of this building from office use to residential use development and if so, is it exempted development?

A Chara,

I refer to your application received on 5th November 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
Clerical Officer
Planning, Placemaking & Economic Development

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



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

CLARE
COUNTY COUNCIL

05 NOV 2025

Received
Planning Section



R25-91

**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

DESMOND HASSETT
TUAMENANEY.
Co CLARE

(b) Telephone No.:

(c) Email Address:

(d) Agent's Name and address:

AS ABOVE

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?

WISH TO CHANGE USE OF THIS
BUILDING FROM OFFICE USE
TO RESIDENTIAL USE

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


I WILL BE CARRYING OUT
WORKS TO UPGRADE &
FIT OUT THIS BUILDING
I WILL NOT BE CARRYING
OUT ANY WORKS THAT
WILL MATERIALLY OR VISUALLY
AFFECT THIS BUILDING.

THIS BUILDING IS DIRECTLY
TO THE SIDE & NEAR OF
MAIN PUBLIC HOUSE & WAS
PREVIOUSLY USED AS AN
AUCTIONEER'S OFFICE

- (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)

SITE LOCATION MAP
PLAN
FRONT ELEVATIONS

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	TUAMENANEY (VIA SLAMIFF) Co. CLARE
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	NO
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	OWNER.
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	YES.
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	YES.
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	NO.
(g) Were there previous planning application/s on this site? If so please supply details:	17/188 17/188, 9/1202 17385 8/12495
(h) Date on which 'works' in question were completed/are likely to take place:	FEB — AUG 2020

X SIGNED: 

DATE: 6/11/25

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:.....			

Land Registry Compliant Map

SITE LOCATION MAP
1:2500

T u a i m G r é i n e
T o m g r a n e y

1.69

BUILDING
FOR CHANGE
OF USE

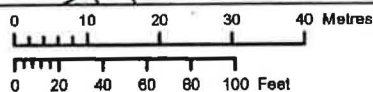
Tuamgraney
Tuaim Gréine

0.33

0.29

2.50

Tuamgraney
National
School



OUTPUT SCALE: 1:1,000

CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: <http://www.osi.ie>; search 'Capture Resolution'



CENTRE COORDINATES:
ITM 563552,683214

PUBLISHED: 05/06/2019 **ORDER NO.:** 50066485_1

MAP SERIES: 1:2,500 **MAP SHEETS:** 4213-B

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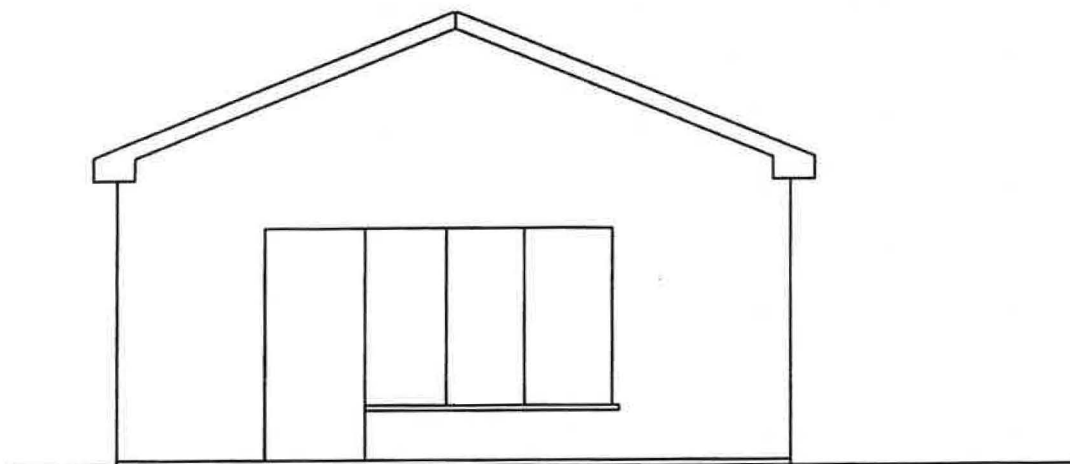
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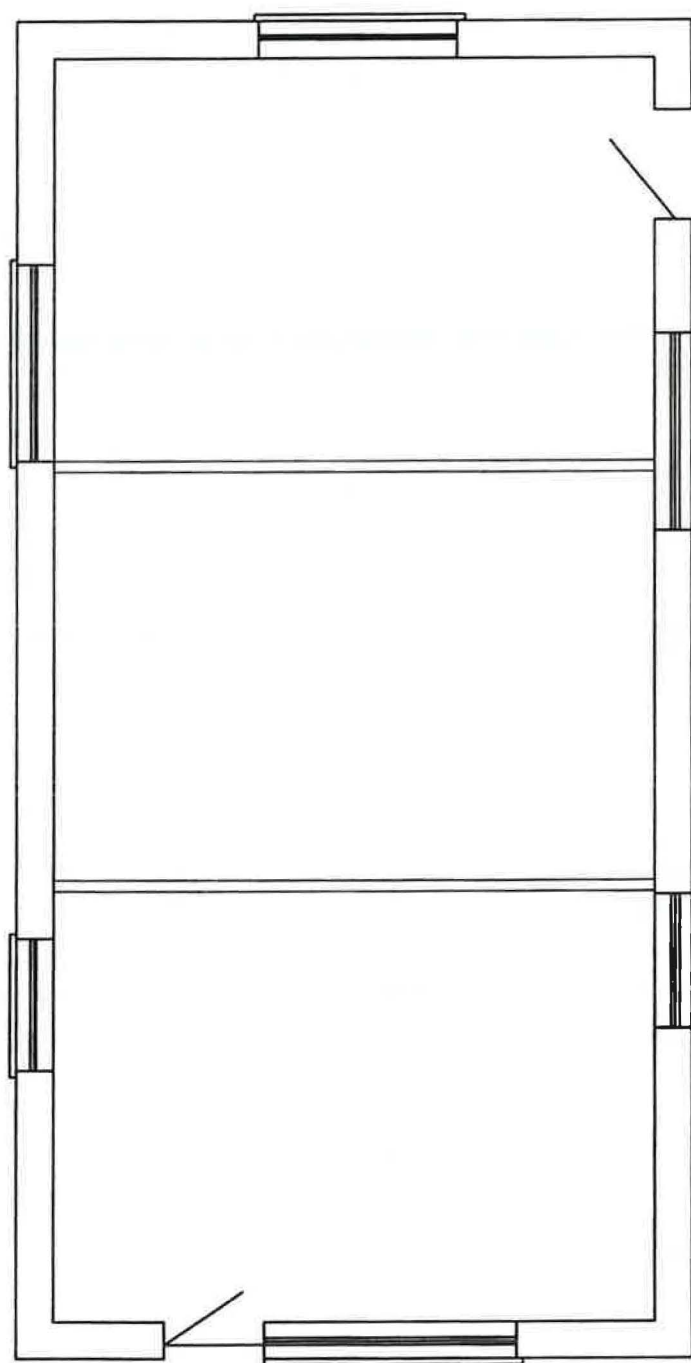
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LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'



FRONT ELEVATION

EXISTING



EXISTING
PLAN

GROUND FLOOR LAYOUT