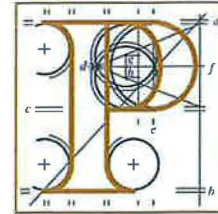


**Our Case Number:** ABP-311735-21

**Planning Authority Reference Number:** R21-57



**An  
Bord  
Pleanála**

Clare County Council  
Planning Department  
New Road  
Ennis  
Co. Clare



**Date:** 30 MAY 2023

**Re:** Whether a pre-1963 farm dwelling have an implied condition of residential use in respect of section 160(6)(b) of the Planning and Development Act 2000 as amended and other questions are or are not development and are or are not exempted development.  
Drumumna, Crusheen, Co. Clare.

Dear Sir/Madam,

An order has been made by An Bord Pleanála determining the above-mentioned referral under the Planning and Development Acts 2000 to 2021. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website ([www.pleanala.ie](http://www.pleanala.ie)). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

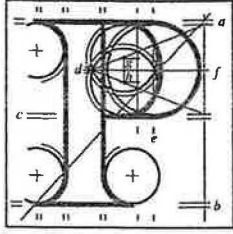
Yours faithfully,

Miriam Baxter  
Executive Officer

RL100n

Teil	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
Ríomhphost	Email	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



**An  
Bord  
Pleanála**

**Board Order  
ABP-311735-21**

---

**Planning and Development Acts 2000 to 2021**

**Planning Authority: Clare County Council.**

**Planning Register Reference Number: R21-57**

**WHEREAS** questions have arisen as to whether -

- (1) a pre-1963 farm dwelling has an implied condition of residential use in respect of section 160(6)(b) of the Planning Development Act 2000, as amended?
- (2) the use of a residential farm as an oil storage and distribution depot is development and, if so, is it exempt development?
- (3) the retail sale of petrol, diesel and ancillary products by Burrenside Oil Limited at Drumumna, Crusheen, County Clare are development and/or an intensification of development on this site?
- (4) the installation of an interceptor tank in October 2020 at Burrenside Oil Limited, Drumumna, Crusheen, County Clare is development and/or an intensification of development, and if so, is it exempt development?

- (5) the placing of approximately 300 square metres of concrete parking for the overnight parking, loading and unloading of trucks at Burrenside Oil Limited, Drumumna, Crusheen, County Clare is development and/or an intensification of development, and if so, is it exempt development?
- (6) the construction of bunding installed in 2020 around oil storage tanks at Burrenside Oil Limited, Drumumna, Crusheen, County Clare is development and/or intensification of development and if so, is it exempt development?
- (7) an increase in oil storage capacity from a much lower level to approximately 159,000 litres for sale and distribution is development and/or an intensification of development, and if so, is it exempt development?
- (8) the construction of offices on a residential farm is development and/or an intensification of development, and if so, is it exempt development?
- (9) the provision of wastewater treatment for on-site staff is development and/or an intensification of development and, if so, is it exempt development,

all at Burrenside Oil Limited, Drumumna, Crusheen, County Clare:

**AND WHEREAS** the question were referred to An Bord Pleanála by Clare County Council on the 21<sup>st</sup> day of October, 2021:

**AND WHEREAS** An Bord Pleanála, in considering this referral, decided to reformulate the questions as follows-

Whether -

1. the change of use of a site at Drumumna, Crusheen, County Clare from residential and/or agricultural purposes to commercial use, incorporating an oil storage facility of up to circa 159,000 litres, a fuel distribution depot, the retail sales of petrol, diesel and ancillary products, and an ancillary office, is or is not development or is or is not exempted development, and
2. works ancillary to the change of use outlined above namely-
  - (a) the installation of an interceptor tank,
  - (b) the installation of approximately 300 square metres of hardstanding for the parking of vehicles,
  - (c) the installation of a bunding wall, and
  - (d) the provision of an onsite wastewater treatment system on the site,

are or are not development or are or are not exempted development.



**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to -

- (a) sections 2(1), 3(1), and 4 of the Planning and Development Act 2000, as amended, and
- (b) articles 5, 6, and 10 and Schedule 2 of the Planning and Development Regulations 2001, as amended:

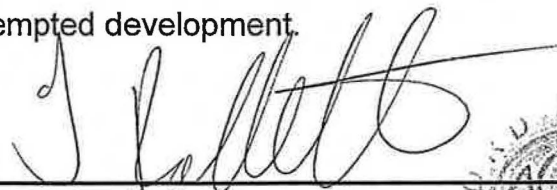
**AND WHEREAS** An Bord Pleanála has concluded that -

- (a) the change of use of the site from residential and/or agricultural purposes to commercial use incorporating an oil storage facility of up to circa 159,000 litres, a fuel distribution depot, the retail sales of petrol, diesel and ancillary products and an ancillary office, constitutes a material change of use and is therefore 'development' and
- (b) works ancillary to the change of use outlined above namely-
  - (i) the installation of an interceptor tank,
  - (ii) the installation of approximately 300 square metres of hardstanding for the parking of vehicles,
  - (iii) the installation of a bunding wall, and
  - (iv) the provision of an onsite wastewater treatment system on the site,are development, and
- (c) there are no exemptions in legislation under which the above developments in question would fall:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that at Drumumna, Crusheen, County Clare -

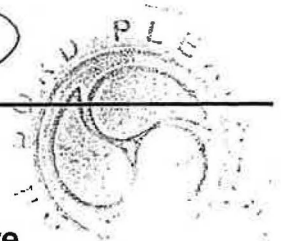
1. the change of use of a site from residential and/or agricultural purposes to commercial use incorporating an oil storage facility of up to circa 159,000 litres, a fuel distribution depot, the retail sales of petrol, diesel and ancillary products and an ancillary office, and
2. works ancillary to the change of use outlined above namely-
  - (a) the installation of an interceptor tank,
  - (b) the installation of approximately 300 square metres of hardstanding for the parking of vehicles,
  - (c) the installation of a bunding wall, and
  - (d) the provision of an onsite wastewater treatment system on the site,

are development and are not exempted development.



**Tom Rabbette**

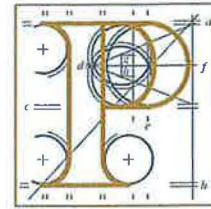
**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**



Dated this 29<sup>th</sup> day of May 2023.

**Our Case Number:** ABP-311735-21

**Planning Authority Reference Number:** R21-57



**An  
Bord  
Pleanála**

Clare County Council  
Planning Department  
New Road  
Ennis  
Co. Clare



**Date:** 03 March 2022

**Re:** Whether a pre-1963 farm dwelling have an implied condition of residential use in respect of section 160(6)(b) of the Planning and Development Act 2000 as amended and other questions are or are not development and are or are not exempted development.  
Drumumna, Crusheen, Co. Clare.

Dear Sir / Madam,

I have been asked by An Bord Pleanála to refer to the above mentioned referral.

In accordance with section 126(2)(a) of the Planning and Development Act, 2000, (as amended), it is a statutory objective of the Board to ensure that every referral received is determined within 18 weeks beginning on the date of receipt of the referral. Where it appears to the Board that it would not be possible or appropriate to determine a referral within this period, a notice must be sent to the parties to the referral in accordance with section 126(3)(a) of the 2000 Act, (as amended).

The Board hereby serves notice under section 126(3)(a) that it will not be possible to determine the case within the statutory objective period due to further consideration of the case.

The Board now intends to determine the above referral before **28th April 2022**. The Board will take all such steps as are open to it to ensure that the referral is determined before that date.

Yours faithfully,

Anna Howard  
Executive Officer  
Direct Line: 01-8737166

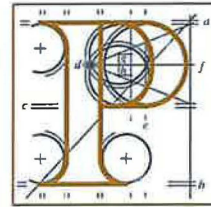
BPRL90 Registered Post

<b>Teil</b>	<b>Tel</b>	(01) 858 8100
<b>Glaio Áitiúil</b>	<b>LoCall</b>	1890 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	www.pleanala.ie
<b>Riomphost</b>	<b>Email</b>	bord@pleanala.ie

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Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

**Our Case Number:** ABP-311735-21

**Planning Authority Reference Number:** R21-57



**An  
Bord  
Pleanála**

Clare County Council  
Planning Department  
New Road  
Ennis  
Co. Clare



**Date:** 20 December 2021

**Re:** Whether a pre-1963 farm dwelling have an implied condition of residential use in respect of section 160(6)(b) of the Planning and Development Act 2000 as amended and other questions are or are not development and are or are not exempted development.  
Drumumna, Crusheen, Co. Clare.

Dear Sir / Madam,

An Bord Pleanála has received your submission in relation to the above-mentioned referral.

Yours faithfully,

Doina Chiforescu  
Administrative Assistant  
Direct Line: 01-8737133

BPRL23

Teil  
Glao Áitiúil  
Facs  
Láithreán Gréasáin  
Riomphost

Tel  
LoCall  
Fax  
Website  
Email

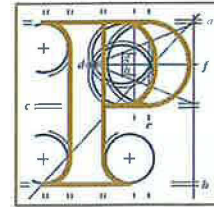
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D01 V902

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Dublin 1  
D01 V902

**Our Case Number:** ABP-311735-21

**Planning Authority Reference Number:** R21-57



**An  
Bord  
Pleanála**

Clare County Council  
Aras Contae an Chlair  
New Road  
Ennis  
Co. Clare  
V95 DXP2



**Date:** 26 October 2021

**Re:** Does a pre-1963 farm dwelling have an implied condition of residential use in respect of section 160(6)(b) of the Planning and Development Act 2000 as amended? And other questions.  
Drumumna, Crusheen, Co. Clare

Dear Sir / Madam,

An Bord Pleanála has received your referral and will consider it under the Planning and Development Act, 2000, (as amended). A receipt for the fee lodged is enclosed.

In order to comply with section 128 of the Planning and Development Act, 2000, (as amended), please forward, within a period of 2 weeks beginning on the date of this letter, copies of any information in your possession which is relevant to the referral, including:

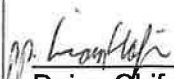
- (i) details of previous decisions affecting the site;
- (ii) any correspondence that has taken place between the person(s) issued with a declaration under subsection (2)(a) of section 5 of the 2000 Act, (as amended), and the planning authority;
- (iii) the name and address of the owner of the land in question and the name of the occupier of the said land, if different;
- (iv) the names and addresses of all persons notified by you under subsection (2) of section 5 of the 2000 Act, (as amended);
- (v) where no declaration was issued by you, indicate the date that the declaration was due to be issued in accordance with subsection (2) of section 5 of the 2000 Act, (as amended).

<b>Teil</b>	<b>Tel</b>	(01) 858 8100
<b>Glaio Áitiúil</b>	<b>LoCall</b>	1890 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	www.pleanala.ie
<b>Riomhphost</b>	<b>Email</b>	bord@pleanala.ie

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D01 V902	D01 V902

Please note that under section 127(3) of the Planning and Development Act, 2000, (as amended), the person by whom the referral is made shall not be entitled to elaborate in writing upon or make further submissions in writing in relation to the grounds of the referral unless requested to do so by An Bord Pleanála.

Yours faithfully,



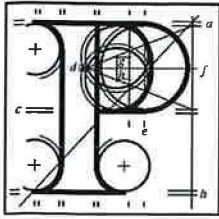
\_\_\_\_\_  
Doina Chiforescu  
Administrative Assistant  
Direct Line: 01-8737133

BPRL01PA

<b>Teil</b>	<b>Tel</b>	(01) 858 8100
<b>Glaó Áitiúil</b>	<b>LoCall</b>	1890 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
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Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902





An  
Bord  
Pleanála

Táille Reachtúil  
Statutory Receipt

<b>Ainm an Chustaiméara:</b> <b>Name of Customer:</b>	<del>Mauro O'Grady</del> Clare County Council
<b>Gníomhaire:</b> <b>Agent:</b>	
<b>Íocaíocht Faighte:</b> <b>Payment Received:</b>	€110
<b>Modh Íocaíochta:</b> <b>Payment Method:</b>	Money Order
<b>Uimh. Aitheantais Lóisteála:</b> <b>Lodgement ID:</b>	LDG-045259-21
<b>Cineál na Lóisteála:</b> <b>Lodgement Type:</b>	Referral
<b>Iarratas ar éisteacht ó bhéal</b> <b>Oral Hearing Request:</b>	No
<b>Dáta Faighte:</b> <b>Date Received:</b>	21/10/2021
<b>Faighte ag:</b> <b>Received by:</b>	Aoife Whelan

Teil  
Glao Áitiúil  
Facs  
Láithreán Gréasáin  
Ríomhphost

Tel (01) 858 8100  
LoCall 1890 275 175  
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Baile Átha Cliath 1  
D01 V902

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Dublin 1  
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COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**REGISTERED POST**  
**The Secretary**  
**An Bord Pleanála**  
**64 Marlborough St**  
**Dublin 1**  
**D01 V902**

RL4096 6288 6IE

**14<sup>th</sup> December 2021**

**Your Reference: ABP-311735-21**

**Section 5 Referral Reference R21-57**

**1. Does a pre-1963 farm dwelling have an implied condition of residential use in respect of section 160(6) (b) of the Planning Development Act 2000 as amended? And other questions. Drumumna, Crusheen, Co. Clare**

A Chara,

I refer to your correspondence dated 26<sup>th</sup> November 2021 re the above referral from Clare County Council.

In relation to the Section 5 Referral Reference R21-57 / ABP-311735-21, the Planning Authority refers to the previous correspondence issued to An Bord Pleanála in respect on this referral, which was dated 4<sup>th</sup> November 2021.

The Planning Authority does not wish to make a further submission or observation at this time.

Mise, le meas

**Kieran O'Donnell**  
**Administrative Officer**  
**Planning Department**  
**Economic Development Directorate**

**An Roinn Pleanála**  
**An Stiúrtóireacht 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  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**REGISTERED POST**  
**The Secretary**  
**An Bord Pleanála**  
**64 Marlborough St**  
**Dublin 1**  
**D01 V902**

RL 5660 3308 71E

4<sup>th</sup> November 2021

Your Reference: ABP-311735-21

**Section 5 Referral Reference R21-57**

**1. Does a pre-1963 farm dwelling have an implied condition of residential use in respect of section 160(6) (b) of the Planning Development Act 2000 as amended? And other questions. Drumumna, Crusheen, Co. Clare**

A Chara,

I refer to your correspondence dated 26<sup>th</sup> October 2021 re the above referral from Clare County Council.

- i. There does not appear to be any previous planning permission for the activity on the site.

Outlined below are previous planning decisions in the nearby area of the site:

**P8-7555**

Applicant Name: Mr Daniel Liddy  
Development Description: Construction of a dwelling house at Drumumna, Crusheen, in accordance with the plans submitted.  
Development Address: Drumumna, Crusheen, Co. Clare

Permission was granted subject to conditions.

Please see enclosed Final Grant issued as part of this permission.

**An Roinn Pleanála**  
**An Stiúirthóireacht Forbairt Gheilleagrach**  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department**  
**Economic Development Directorate**  
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2





COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**P97/634**

Applicant Name: Mr. Michael Liddy  
Development Description: To construct a dwellinghouse with septic tank at  
Drumumna, Crusheen, Co. Clare.  
Development Address: Drumumna, Crusheen, Co. Clare

Permission was granted subject to conditions.

Please see enclosed Final Grant issued as part of this permission.

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### **UD 20-101**

This is an unauthorized development file that was opened as a result of complaints as regards potential unauthorized activity at Drumumna, Crusheen, Co. Clare.

For the Boards information, as it currently stands the Planning Authority considers that pursuing enforcement action is statute barred in respect of the use of the site as a fuel depot, as the depot has been operating at that location for longer than seven years.

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- ii. Section 5 Referral Application and associated paperwork as submitted on the 28<sup>th</sup> September 2021.  
Acknowledgement from Clare County Council dated the 29<sup>th</sup> September 2021. Separate letters issued by the Planning Authority on the 20<sup>th</sup> October 2021 to both the applicant and the owner/occupier of the site, informing them that the matter had been referred to ABP.
- iii. The owner/occupiers of the property in question are Daniel Liddy & Michael Liddy T/A Burrenside Oil.
- iv. See attached letters of notification issued to the applicant, along with the letter of notification to the owner/occupiers, issued on 20<sup>th</sup> October 2021.

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  
CONTAE AN CHLÁIR | COUNTY COUNCIL

- v. The request for a Section 5 Declaration was received by the Planning Authority on 28<sup>th</sup> September 2021, and had it not been referred to ABP would have been due to be issued on 25<sup>th</sup> October 2021.

Mise, le meas

**Anne O'Gorman**  
**Staff Officer**  
**Planning Department**  
**Economic Development Directorate**

**An Roinn Pleanála**  
**An Stiúrtóireacht 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

LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACT, 1963.

NOTIFICATION OF A GRANT OF PERMISSION (SUBJECT TO CONDITIONS).

To: Mr. Daniel Liddy, Reference No. in Register of Clare County Council P.8/7555
Drumumna,
Crusheen,
Ennis, CO. CLARE.

Application by Mr. Daniel Liddy, Drumumna, Crusheen, Ennis.

of 31st December, 1973 for permission for construction of a dwellinghouse at Drumumna, Crusheen, in accordance with the plans submitted.

A permission has been granted for the development described above subject to the following condition(s):-

- (1) Septic tank shall be properly constructed in accordance with an approved plan and shall be situate not less than 60 feet from any dwellinghouse and public road and not less than 100 feet from any source of water supply.
(2) Any new road boundary fence erected shall be located in a position not less than 8 feet inside the line of the existing road boundary fence.
(3) The entrance gate shall be recessed 15 feet inside the line specified for the new road boundary fence or 23 feet inside the line of the existing road boundary fence and wing walls splayed at an angle of 45 degrees shall be provided.
(4) A line of Safticurb Drain Blocks, or equivalent, shall be provided across the full width of the access driveway inside the entrance gate together with a soakpit of adequate capacity to dispose of the surface water discharge from the drain blocks.
(5) The existing land drain shall not be obstructed at the access to the site off the public road.

Signed on behalf of Clare County Council Sean O'Murchadha for County Secretary, New Road, Ennis, Co. Clare.



**CLARE COUNTY COUNCIL**

**LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963 TO  
1993 NOTIFICATION OF A GRANT A PERMISSION (SUBJECT TO  
CONDITIONS)**

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**To:** Michael Liddy  
Drumumna  
Crusheen  
Co Clare

**Reference No. in  
Planning Register:** P97/634

**Application received:** 14/5/1997

**Application of Michael Liddy  
of Drumumna, Crusheen, Co. Clare for permission**

**to construct a dwellinghouse with septic tank at Drumumna,  
Crusheen, Co. Clare**

**A permission has been granted for the development described above, subject to  
the following 14 conditions:-**

1. The existing front boundary fence shall be removed for a distance of 75 ft. and shall be replaced by a new wall not more than 3' 6" in height and located at least 10 feet from the inside edge of the existing public road carriageway. The area between the new wall and the edge of the road carriageway shall be excavated over, filled with a compacted granular material brought to road level with the existing camber continued, drained, sealed and left suitable for parking. The new wall and any entrance walls specified in condition no. "2" below shall be constructed of local stone/shall be of sod and stone construction and a new hedge and trees shall be planted at the inside face of the new wall. Any poles along the existing site boundary shall be relocated to a point immediately at the outer face of the new front boundary wall. This work shall be carried out by the developer or on his behalf and at his own expense.
2. The entrance gate shall be recessed 15 ft. inside the line of the new road boundary wall, with wing walls not more than 3'6" in height splayed at an angle of 45 degrees or bellmouthed in a manner to give an entrance width of 45 ft. at the new fenceline.
3. The finished level of the recessed entrance shall be the same as the road level opposite the entrance gates.

4. No surface water shall be permitted to flow onto the public road during or after site development. A drainage channel adequate to ensure that such does not occur shall be provided across the full width of the access driveway inside the entrance gate.
5. The proposed dwelling shall be located as indicated on lodged plans.
6. Adequate provision shall be made for the disposal on site of surface water run-off from the public road, and the discharge of surface water from the public road onto the site through existing outlets shall not be obstructed.
7. Concrete pipes shall be provided in the bed of the existing roadside drain where that drain is located under the proposed entrance and the parking area specified at 1 above. These pipes shall be of a capacity and shall be laid in a manner to ensure the continued free flow of water and the avoidance of flooding. The drain bed shall be graded to permit the continued free flow of water and the piped length shall be backfilled and consolidated in a manner adequate to accommodate the parking of vehicles.
8. All E.S.B. and telephone cables shall be located underground.
9. The proposed septic tank and percolation area shall be constructed in accordance with S.R. 6 of 1991 of the N.S.A.I. or such other plan as may be agreed with the Council and shall be located not less than 60' from any dwellinghouse, not less than 33' from any road boundary, stream or drain, not less than 10' from any other boundary of the site and in a position which will not cause contamination of any source of potable water but in any case not less than 100' from any such source.
10. Roof tiles/slates shall be blue/black, slate-grey or turf brown in colour.
11. Existing trees and hedgerows shall be retained, save where their removal is required by other conditions of this permission.
12. No excavation or other work on the public road shall take place without the prior written consent of the Council.
13. The roof treatment shall be amended to remove the mixture of gable and hip features when viewed from the South West of the rear. A revised roof treatment shall be agreed with the Council before development commences.
14. No alterations shall be made to approved external wall finishes or window designs without the prior consent of the Council.

**SIGNED on behalf of Clare County Council:**

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**for County Secretary, Planning Section,  
New Road, Ennis, Co. Clare**

**DATED: 10th November 1997**



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Maura O'Grady**  
c/o Sadleir Lynch Piers Solicitors LLP,  
Crow Street,  
Gort  
Co. Galway  
H91 DAE0

20<sup>th</sup> October 2021

Your Ref: CP/CP/O00762

A Chara,

I refer to your application received on 28<sup>th</sup> September 2021 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the attached.

I wish to advise that the Planning Authority has not made a declaration in this instance. The Planning Authority has however referred the matter to An Bord Pleanála for a determination under Section 5(4) of the Planning and Development Act, 2000, as amended,

Upon receipt of such determination, the Planning Authority will proceed to issue a response to the declaration as sought.

Mise, le meas

**Kieran O'Donnell**  
**Administrative Officer**  
**Planning Department**  
**Economic Development Directorate**

**Please note:** A notification will be also issued to the stated owner of the property in question, Daniel Liddy & Michael Liddy T/A Burrenside Oil, Drumumna , Crusheen, Co. Clare advising that we have referred the matter to An Bord Pleanála for a determination.

**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  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Section 5 referral Reference R21-57 – Maura O’Grady**

1. Does a pre-1963 farm dwelling have an implied condition of residential use in respect of section 160(6) (b) of the Planning Development Act 2000 as amended?
2. Is the use of a residential farm as an oil storage and distribution depot development and, if so, is it exempt development?
3. Is the retail sale of petrol, diesel and ancillary products by Burrenside Oil Ltd. at Drumumna, Crusheen, Co. Clare development and/or an intensification of development on this site?
4. Was the installation of an interceptor tank in October 2020 at Burrenside Oil Ltd., Drumumna, Crusheen, Co. Clare development and/or an intensification of development, and if so, is it exempt development?
5. Is the placing of approximately 300m<sup>2</sup> of concrete parking for the overnight parking, loading and unloading of trucks at Burrenside Oil Ltd, Drumumna, Crusheen, Co. Clare development and/or an intensification of development, and if so, is it exempt development?
6. Is the construction of bunding installed in 2020 around oil storage tanks at Burrenside Oil Ltd., Drumumna, Crusheen, Co. Clare development and/or intensification of development and if so is it exempt development?
7. Is an increase in oil storage capacity from a much lower level to approximately 159,000 litres for sale and distribution development and/or an intensification of development, and if so, is it exempt development?
8. Is the construction of offices on a residential farm development and/or an intensification of development, and if so, is it exempt development?
9. Is the provision of wastewater treatment for on-site staff development and/or an intensification of development and if so is it exempt development?



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Daniel Liddy & Michael Liddy**  
**Burrenside Oil,**  
**Drumumna ,**  
**Crusheen,**  
**Co. Clare**

**20<sup>th</sup> October 2021**

A Chara,

The Planning Authority has received a Section 5 declaration with respect to the attached works and issues this letter to inform you, as the owner of the property in question.

I wish to advise that the Planning Authority has not made a declaration in this instance but has referred the matter to An Bord Pleanála for a determination under Section 5(4) of the Planning and Development Act, 2000, as amended,

Upon receipt of such determination, the Planning Authority will proceed to issue a response to the declaration as sought.

Mise, le meas

**Tadhg Holmes**  
**Planning Department**  
**Economic Development Directorate**



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**REGISTERED POST**

**The Secretary  
An Bord Pleanála  
64 Marlborough Street,  
Dublin 1, D01 V902**

RL 5660 3365 71E

**20<sup>th</sup> October 2021**

A Chara,

The Planning Authority has received a Section 5 declaration with respect to the attached works.

I wish to advise that the Planning Authority has not made a declaration in this instance and is now referring the matter to An Bord Pleanála for a determination under Section 5(4) of the Planning and Development Act, 2000, as amended.

I attach relevant details in relation to same along with fee of €110.00 for the referral.

Mise, le meas

**Kieran O'Donnell  
Administrative Officer  
Planning Department  
Economic Development Directorate**

**An Roinn Pleanála  
An Stiúthóireacht 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  
CONTAE AN CHLÁIR | COUNTY COUNCIL

### Section 5 referral Reference R21-57 – Maura O’Grady

1. Does a pre-1963 farm dwelling have an implied condition of residential use in respect of section 160(6) (b) of the Planning Development Act 2000 as amended?
2. Is the use of a residential farm as an oil storage and distribution depot development and, if so, is it exempt development?
3. Is the retail sale of petrol, diesel and ancillary products by Burrenside Oil Ltd. at Drumumna, Crusheen, Co. Clare development and/or an intensification of development on this site?
4. Was the installation of an interceptor tank in October 2020 at Burrenside Oil Ltd., Drumumna, Crusheen, Co. Clare development and/or an intensification of development, and if so, is it exempt development?
5. Is the placing of approximately 300m<sup>2</sup> of concrete parking for the overnight parking, loading and unloading of trucks at Burrenside Oil Ltd, Drumumna, Crusheen, Co. Clare development and/or an intensification of development, and if so, is it exempt development?
6. Is the construction of bunding installed in 2020 around oil storage tanks at Burrenside Oil Ltd., Drumumna, Crusheen, Co. Clare development and/or intensification of development and if so is it exempt development?
7. Is an increase in oil storage capacity from a much lower level to approximately 159,000 litres for sale and distribution development and/or an intensification of development, and if so, is it exempt development?
8. Is the construction of offices on a residential farm development and/or an intensification of development, and if so, is it exempt development?
9. Is the provision of wastewater treatment for on-site staff development and/or an intensification of development and if so is it exempt 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





**SADLEIR LYNCH PIERSE**  
**SOLICITORS LLP**

Olivia Lynch, B. Arts, LL.B, Notary Public  
Cliona Pierse, B. Comm (Intl), Chartered Director

Crow Street, Gort  
County Galway  
H91 DAE0

DX: 77004 Gort  
info@slpsolicitors.ie  
Tel:  
VAT

Our Ref: CP/CP/O00762  
Your Ref:

27<sup>th</sup> September 2021

Planning Department  
Economic Development Directorate  
Clare County Council  
Áras Contae an Chláir  
New Road  
Ennis  
County Clare  
V95 DXP2



**Re: Our Client(s): Maura O'Grady**  
**Business: Danny Liddy and Michael Liddy trading as Burrenside Oil**  
**Address: Drumumna, Crusheen, County Clare**

Dear Sirs,

We enclose\*

1. P07 request for a Declaration on Development and Exempted Development together with attached sheets\*2
2. Site Location Map in Duplicate

Our client will phone to pay the fee of €80.00.

We await hearing from you.

Yours faithfully,

  
Sadleir Lynch Pierse  
Solicitors LLP

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

COMHAIRLE

29/09/2021 09:30:02

Receipt No. : LICASH/0322734  
\*\*\*\*\* REPRINT \*\*\*\*\*

MAURA O GRADY  
C/O SADLER LYNCH PIERSE SOLICITORS LLP  
CROW STREET  
GORT  
CO GALWAY  
REF R21 57

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

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

Change : 0.00

Issued By : LICASH - Ann Carey

P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,  
Economic Development Directorate,  
Clare County Council,  
New Road, Ennis,  
Co. Clare.  
V95DXP2

Telephone No. (065) 6821616  
Fax No. (065) 6892071  
Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://www.clarecoco.ie)



**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT  
(Section 5 of the Planning & Development Act 2000 (as amended))**

**FEE: €80**

*This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority*

<b>1. CORRESPONDENCE DETAILS.</b>	
(a) Name and Address of person seeking the declaration	<p>Maura O' Grady</p> <hr/> <p>Ballygassane</p> <hr/> <p>Crusheen</p> <hr/> <p>Co Clare</p> <hr/>
(b) Telephone No.:	0
(c) Email Address:	
(d) Agent's Name and address:	<p>Sadleir Lynch Pierse Solicitors LLP</p> <hr/> <p>Crow St</p> <hr/> <p>Gort</p> <hr/> <p>Co Galway</p> <hr/>

**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?*

*See attached sheet*

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

*See attached sheet*

(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 attached with location marked in red.*

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Drumumna, Crusheen 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):	None. The person requesting the declaration is the owner of neighbouring lands _____
(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>	Danny Liddy and Michael Liddy T/A Burrenside Oil are the occupiers. Daniel Liddy is the registered owner _____
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	The person looking to the declaration has not notified him of the current request
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	Notification was made to the local authority. It is not believed proceedings have commenced
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	Not in respect of change of use to a commercial oil depot or the recent works
(h) Date on which 'works' in question were completed/are likely to take place:	Up to In or around September <del>2020</del> / Oct 2020

SIGNED: My

DATE: 23-09-2021



**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:	.....		

**SECTION 5 Q2A. 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.**

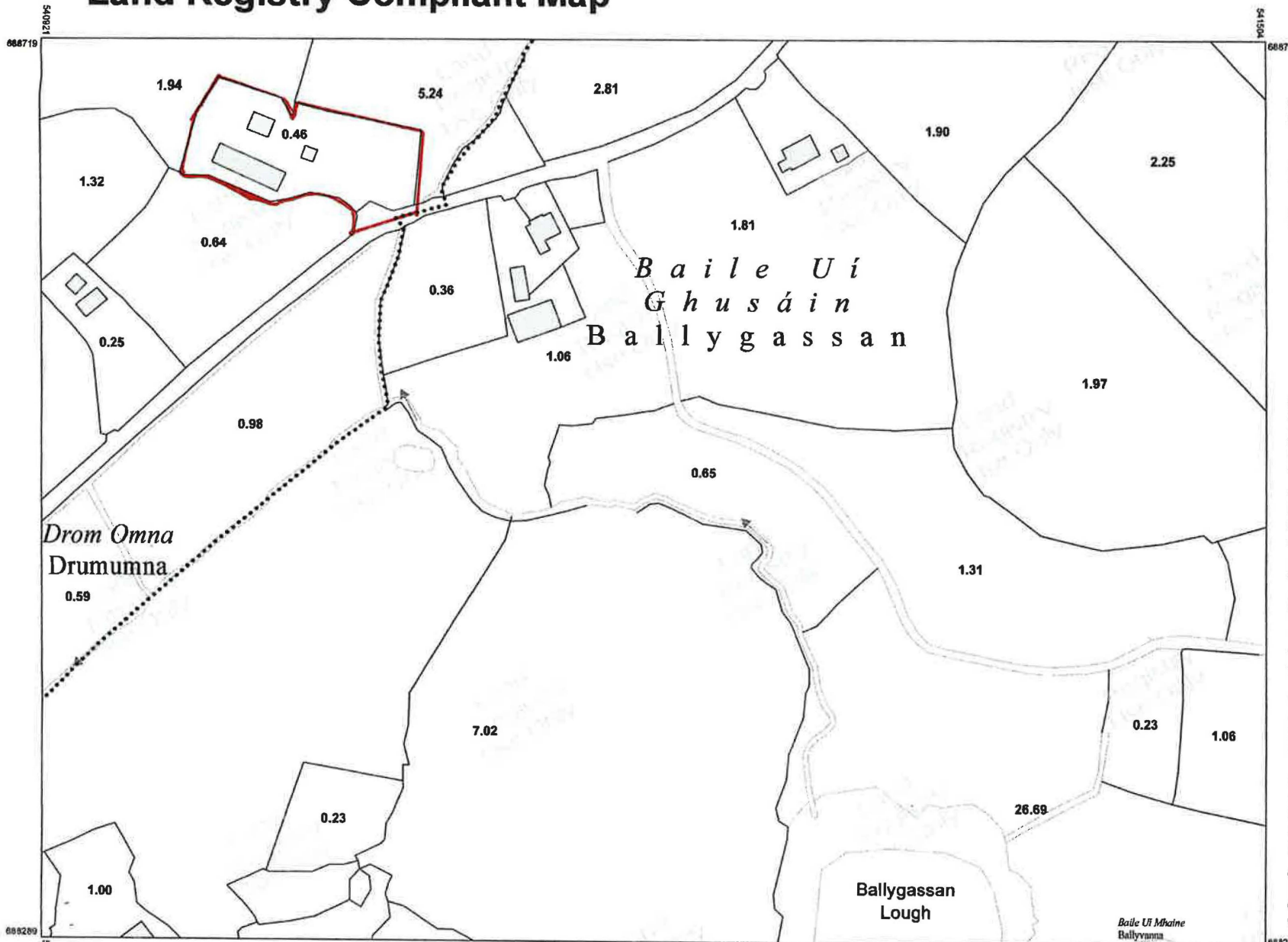
**Specific Questions:**

1. Does a pre-1963 farm dwelling have an implied condition of residential use in respect of section 160(6) (b) of the Planning and Development Act 2000 as amended?
2. Is the use of a residential farm as an oil storage and distribution depot development and, if so, is it exempt development?
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*SECTION 5 Q2(b) Full Description*

1. The subject site was traditionally a residential farm with a pre-1963 dwelling. In or about 2001, Burrenside Oil Ltd. commenced an oil storage and distribution depot from this location on a relatively small scale. Over the years there have been several intensifications to the current situation whereby four rigid distribution trucks and several articulated oil tankers use this depot on a daily basis. Members of the public also visit on a daily basis the site to purchase fuel for cars, vans, jeeps and tractors. In 2015 additional large tanks were installed which significantly increased the storage capacity.
2. Following a complaint of unauthorised development and environmental pollution to Clare County Council I was informed that enforcement was statute barred because the development was more than 7 years in existence. I had advice that a change of use is not statute barred. Burrenside Oil Ltd. became aware of my complaint and on whatever basis decided to mitigate its position by putting in a concrete base and an oil interceptor trap.
3. These most recent works involved the installation of the Interceptor Tank and as with all the other development did not have planning permission. The site forms part of the Slieve Aughty Mountains Specially Protected Area 004168 and no consideration of environmental impacts has ever been applied to any of the development on the site. There are significant concerns that the operation of this depot is discharging petroleum hydrocarbons spillages into the ground, adjacent stream, groundwater and other surfacewater features locally.

# Land Registry Compliant Map



**CENTRE COORDINATES:**  
ITM 541213,688504

**PUBLISHED:** 07/09/2021  
**ORDER NO.:** 50218346\_1

**MAP SERIES:** 1:5,000  
**MAP SHEETS:** 4091

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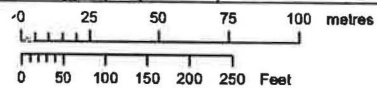
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search 'Large Scale Legend'

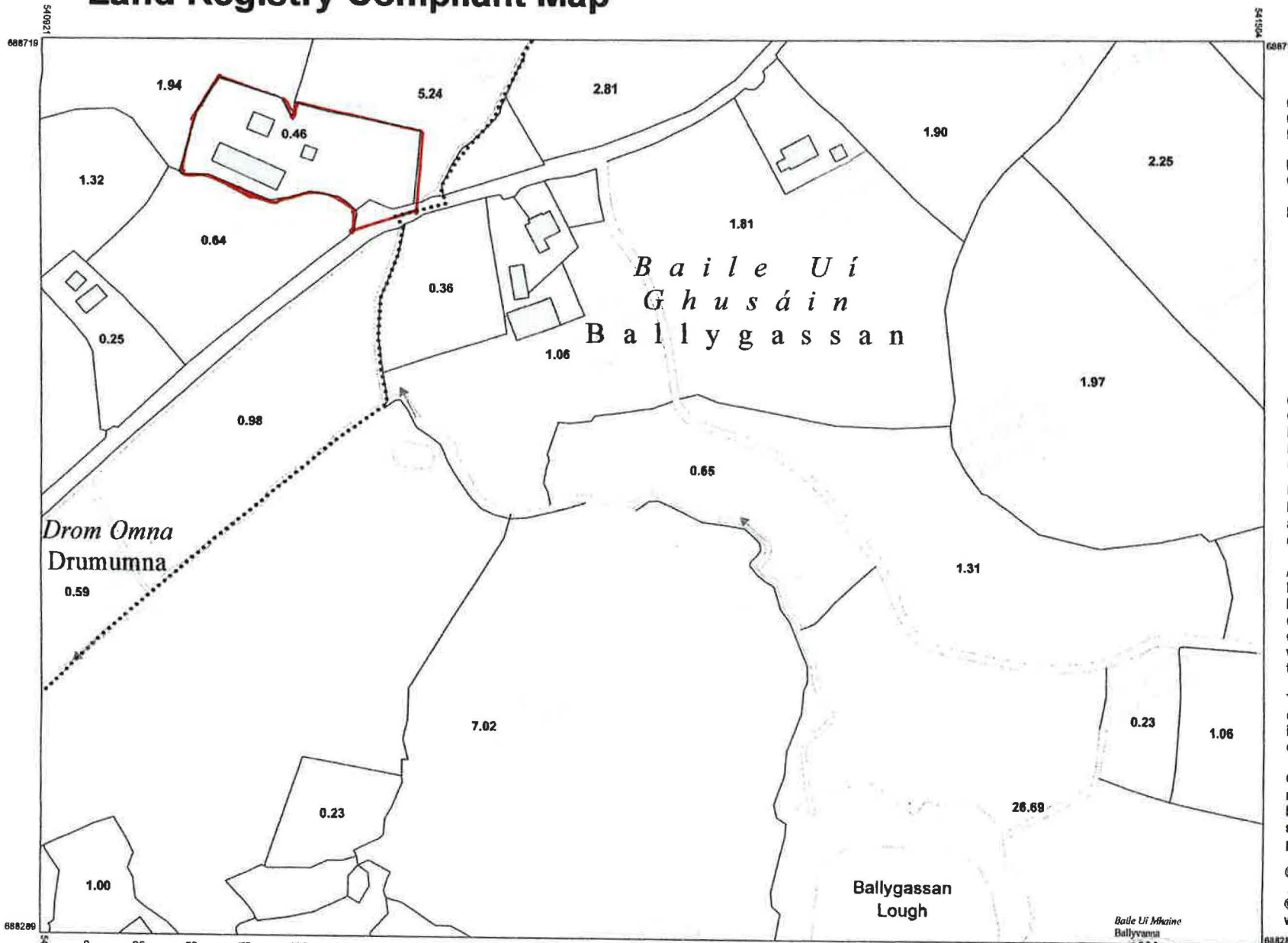


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<http://www.osi.ie>; search 'Capture Resolution'



# Land Registry Compliant Map



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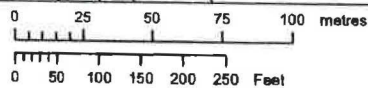
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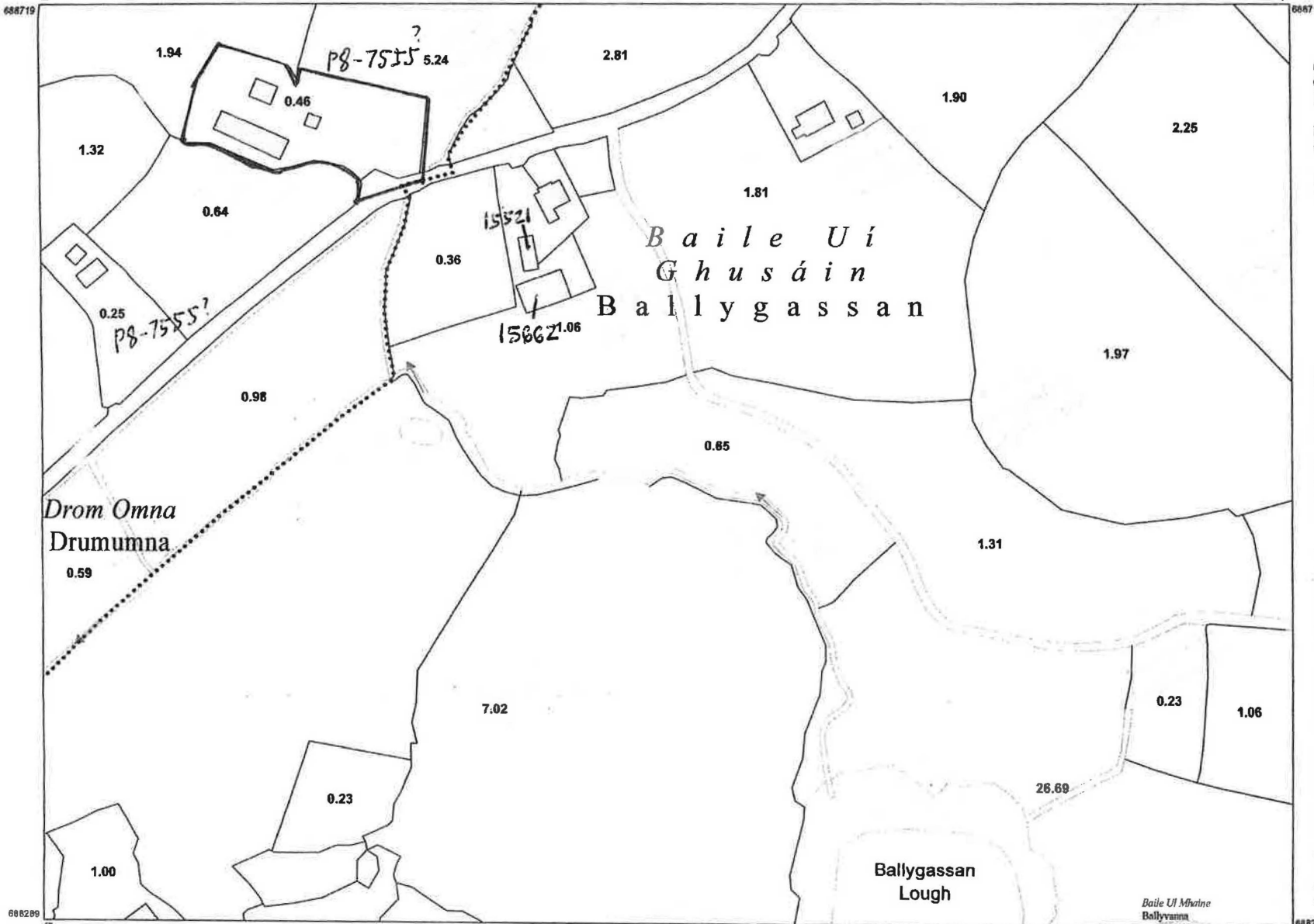
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**OUTPUT SCALE: 1:2,500**





# Land Registry Compliant Map



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ITM 541213,688504

**PUBLISHED:** 07/09/2021  
**ORDER NO.:** 50218346\_1

**MAP SERIES:** 1:5,000  
**MAP SHEETS:** 4091

Map: 18

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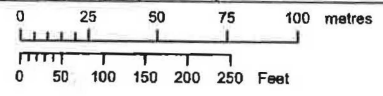
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