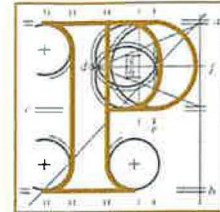


**Our Case Number:** ABP-313930-22 (ABP-308442-20)

**Planning Authority Reference Number:** R2044



**An  
Bord  
Pleanála**

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



**Date:** 22 FEB 2024

**Re:** Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road is or is not development and is or is not exempted development.

Former Anglers Rest, Doonass Demense, Clonlara, Co.Clare, V94 K735

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 2022. 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.

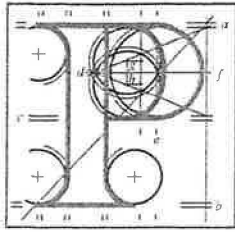
Yours faithfully,

Rory Kelledy  
Executive Officer

RL100n

Teil	Tel	(01) 858 8100
Glaao 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-313930-22 (ABP-**  
**308442-20)**

---

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Clare County Council.**

**Planning Register Reference Number: R2044.**

**WHEREAS** a question has arisen as to whether the construction of a fence, a pedestrian gate and a vehicular gate on the road at the Former Anglers Rest, Doonass Demense, Clonlara, County Clare, is or is not development or is or is not exempted development is or is not development or is or is not exempted development.

**AND WHEREAS** Clare County Council of New Road, Ennis, County Clare referred this declaration for determination by An Bord Pleanála, received on the 19th day of October 2020:

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



- (a) sections 2, 3 and 4 of the Planning and Development Act 2000, as amended,
- (b) Articles 5, 6 and 9 of the Planning and Development Regulations 2001, as amended, and Part 1 of Schedule 2 to those Regulations, including Classes 5, 7, 9 and 11 including the relevant Conditions and Limitations,
- (c) the existing use and planning history of the site,
- (d) the pattern of development in the area,
- (e) the submissions of the Requester, the Referrer and the Owner/Occupier, and
- (f) the report of the Inspector:

**AND WHEREAS** An Bord Pleanála has concluded that the construction of a fence, a pedestrian gate and a vehicular gate on the road;

- (a) Does constitute the carrying out of works which comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000, as amended;
- (b) Does come within the scope of Class 5, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and
- (c) The development would not be exempted development, having regard to Article 9(1)(a)(x) of those regulations as it would constitute the construction of a fence, a pedestrian gate and a vehicular gate on the road which encloses land habitually open to or used by the public during the 10 years preceding the construction of the fence, a pedestrian gate

and a vehicular gate on the road for recreational purposes or as a means of access to any riverbank or other place of recreational utility;

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the construction of a fence, a pedestrian gate and a vehicular gate on the road at the Former Anglers Rest, Doonass Demense, Clonlara, County Clare, is development and is not exempted development.

*Stewart Logan*



**Stewart Logan**

**Member of An Bord Pleanála**

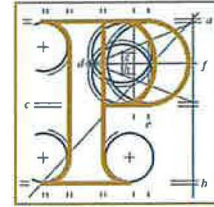
**duly authorised to authenticate  
the seal of the Board.**

Dated this *22* day of *February* 2024.



**Our Case Number:** ABP-313930-22

**Planning Authority Reference Number:** R2044



**An  
Bord  
Pleanála**



Clare County Council  
Planning Department  
New Road  
Ennis  
Co. Clare

**Date:** 19 January 2023

**Re:** Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road is or is not development and is or is not exempted development.  
Former Anglers Rest, Doonass Demense, Clonlara, Co.Clare, V94 K735

Dear Sir / Madam,

I have been asked by the Board to refer to the above-mentioned referral and, in particular, to the Board's notice to you under section 126 of the Planning and Development Act, 2000, (as amended), in which it was indicated that the Board intended to determine this referral before 21st January 2023.

I regret to inform you that, the Board will not now be in a position to determine the referral before that date. The continuing delay is due to the

The delay involved is regretted.

Yours faithfully,

James Sweeney  
Executive Officer  
Direct Line:

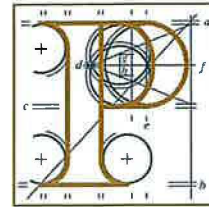
BPRL93

**Teil**  
**Glaio Áitiúil**  
**Facs**  
**Láithreán Gréasáin**  
**Riomhphost**

**Tel** (01) 858 8100  
**LoCall** 1800 275 175  
**Fax** (01) 872 2684  
**Website** www.pleanala.ie  
**Email** bord@pleanala.ie

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

**Our Case Number:** ABP-313930-22  
**Planning Authority Reference Number:** R2044



**An  
Bord  
Pleanála**

Clare County Council  
Planning Department  
New Road  
Ennis  
Co. Clare

**Date:** 01 November 2022

**Re:** Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road is or is not development and is or is not exempted development.  
Former Anglers Rest, Doonass Demense, Clonlara, Co.Clare, V94 K735

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 a backlog of cases.

The Board now intends to determine the above referral before the **23rd January, 2023**. **The provisions of section 251 of the Planning and Development Act, 2000, (as amended), relating to the holiday period between the 24th December and 1st January, both days inclusive, have been taken into account in the calculation of the response date.** The Board will take all such steps as are open to it to ensure that the referral is determined before that date.

Yours faithfully,

James Sweeney  
Executive Officer  
Direct Line:



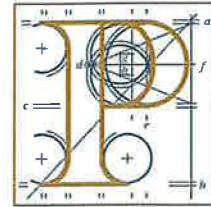
BPRL90 - Xmas Registered Post

<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>Ríomhphost</b>	<b>Email</b>	bord@pleanala.ie

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

**Our Case Number:** ABP-313930-22

**Planning Authority Reference Number:** R2044



**An  
Bord  
Pleanála**

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



**Date:** 13 September 2022

**Re:** Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road is or is not development and is or is not exempted development.  
Former Anglers Rest, Doonass Demense, Clonlara, Co.Clare, V94 K735

Dear Sir / Madam,

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

The Board is of the opinion that, in the particular circumstances of this appeal, it is appropriate in the interests of justice to request you to make submissions or observations in relation to the enclosed submission dated 10th May 2022 received from The High Court.

In accordance with section 131 of the Planning and Development Act, 2000, (as amended), you are requested to make any submissions or observations that you may have in relation to this enclosure **on or before 3rd October 2022**. The Board cannot consider comments that are outside the scope of the matter in question. Your submission in response to this notice must be received by the Board not later than **5:30pm on the date specified above**.

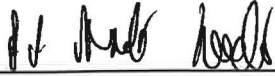
If no submission or observation is received before the end of the specified period, the Board will proceed to determine the appeal without further notice to you, in accordance with section 133 of the 2000 Act.

<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>	www.pleanala.ie
<b>Ríomhphost</b>	<b>Email</b>	bord@pleanala.ie

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

Please quote the above appeal reference number in any further correspondence.

Yours faithfully,



James Sweeney  
Executive Officer  
Direct Line:

BP70 Registered Post

**Tel**  
**Glaó Áitiúil**  
**Facs**  
**Láithreán Gréasáin**  
**Riomhphost**

**Tel**  
**LoCall**  
**Fax**  
**Website**  
**Email**

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1890 275 175  
(01) 872 2684  
[www.pleanala.ie](http://www.pleanala.ie)  
[bord@pleanala.ie](mailto:bord@pleanala.ie)

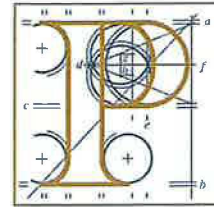
64 Sráid Maoilbhríde  
Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902



**Our Case Number:** ABP-313930-22

**Planning Authority Reference Number:** R2044



**An  
Bord  
Pleanála**

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

**Date:** 13 September 2022

**Re:** Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road is or is not development and is or is not exempted development.  
Former Anglers Rest, Doonass Demense, Clonlara, Co.Clare, V94 K735

Dear Sir / Madam,

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

The Board is of the opinion that, in the particular circumstances of this appeal, it is appropriate in the interests of justice to request you to make submissions or observations in relation to the enclosed submission dated 2nd December 2020 received from Fiona McCarthy.

In accordance with section 131 of the Planning and Development Act, 2000, (as amended), you are requested to make any submissions or observations that you may have in relation to this enclosure **on or before 3rd October 2022**. The Board cannot consider comments that are outside the scope of the matter in question. Your submission in response to this notice must be received by the Board not later than **5:30pm on the date specified above**.

If no submission or observation is received before the end of the specified period, the Board will proceed to determine the appeal without further notice to you, in accordance with section 133 of the 2000 Act.

Please quote the above appeal reference number in any further correspondence.

Yours faithfully,

James Sweeney  
Executive Officer  
Direct Line:

BP70 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>Ríomhphost</b>	<b>Email</b>	bord@pleanala.ie

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COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Fiona MacCarthy**  
Doonass Demense  
Clonlara  
Co Clare

**05<sup>th</sup> March 2021**

**Section 5 referral Reference R20-44 in the name of Fiona MacCarthy  
Whether to construction of a fence, a pedestrian gate and a vehicular gate on the road  
at Doonass, Clonlara Co. Clare is or is not development and is or is not exempted  
development.**

A Chara,

I refer to your application received on 29<sup>th</sup> September, 2020 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The file was referred to An Bord Pleanála by Clare County Council for a determination under Section 5(4) of the Planning & Development Act, 2000, as amended.

Please find enclosed herewith a copy of the determination made by An Bord Pleanála dated 26<sup>th</sup> of February 2021.

Mise, le meas

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

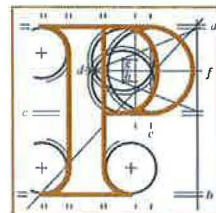
**An Roinn Pleanála**  
**An Stiúirthóireacht Forbairt Gheilleagrach**  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

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



**Our Case Number:** ABP-308442-20

**Planning Authority Reference Number:** R2044



**An  
Bord  
Pleanála**

Clare County Council  
Planning Department  
New Road  
Ennis  
Co. Clare



**Date:** - 1 MAR 2021

**Re:** Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road is or is not development and is or is not exempted development.  
Former Anglers Rest, Doonass Demense, Clonlara, Co.Clare, V94 K735

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 2020. 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,

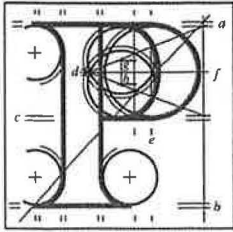
Miriam Baxter  
Executive Officer

RL100n

<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>	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
<b>Ríomhphost</b>	<b>Email</b>	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

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Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902





**An  
Bord  
Pleanála**

**Board Order  
ABP-308442-20**

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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: R20-44**

**WHEREAS** a question has arisen as to whether the construction of a fence, pedestrian gate and a vehicular gate on a road at Doonass, Clonlara, County Clare is or is not development or is or is not exempted development:

**AND WHEREAS** the said question was referred to An Bord Pleanála by Clare County Council on the 19<sup>th</sup> day of October, 2020:

**AND WHEREAS** An Bord Pleanála, has reformulated the question as follows-

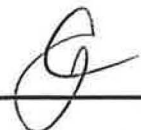
“whether the construction/erection of a fence, pedestrian gate/gateway and vehicular gate/gateway within the curtilage of a ‘Business Premises’ where part of that premises is now in use as a ‘House’, at Doonass, Clonlara, County Clare is or is not development, and if it is development, is it, or is it not exempted development”:

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

- (a) sections 2, 3 and 4 of the Planning and Development Act 2000, as amended,
- (b) articles 5, 6 and 9 of the Planning and Development Regulations 2001, as amended, and Part 1 of Schedule 2 to those Regulations, including Classes 5, 7, 9 and 11, including the relevant Conditions and Limitations,
- (c) the original use and absence of a planning history of the site,
- (d) the pattern of development in the area,
- (e) the submissions of the Requester, Referrer and the Owner, and
- (f) the report of the Inspector:

**AND WHEREAS** An Bord Pleanála has concluded that the construction/erection of a fence, pedestrian gate/gateway and vehicular gate/gateway within the curtilage of a 'Business Premises' where part of that premises is now in use as a 'House'-

- (a) constitutes the carrying out of works which comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000, as amended,
- (b) comes within the scope of Class 5, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and



- (c) consists of the fencing or enclosure of 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:

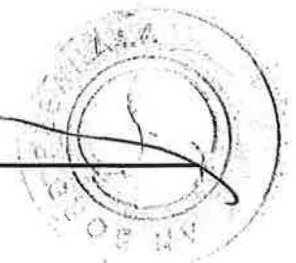
**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the construction/erection of a fence, pedestrian gate/gateway and vehicular gate/gateway within the curtilage of a 'Business Premises' where part of that premises is now in use as a 'House', at Doonass, Clonlara, County Clare is development and is not exempted development.

### **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.



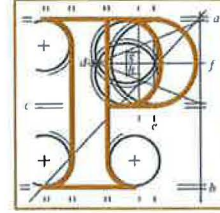
**John Connolly**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**



Dated this 26<sup>th</sup> day of FEBRUARY 2021.

**Our Case Number:** ABP-308442-20

**Planning Authority Reference Number:** R2044



**An  
Bord  
Pleanála**

Clare County Council  
Planning Department  
New Road  
Ennis  
Co. Clare



**Date:** 24 November 2020


**Re:** Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road is or is not development and is or is not exempted development.  
Former Anglers Rest, Doonass Demense, Clonlara, Co.Clare, V94 K735

Dear Sir / Madam,

An Bord Pleanála has received your submission in relation to the above-mentioned referral and will take it into consideration in its determination of the referral in accordance with the Planning and Development Act, 2000, (as amended).

Please note that section 129(4) of the 2000 Act, (as amended), provides that a party to a referral shall not be entitled to elaborate in writing upon submissions made or make any further observations in writing unless requested to do so by An Bord Pleanála.

Yours faithfully,

  
Doina Chiforescu  
Administrative Assistant  
Direct Line: 01-8737133

BPRL20

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

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Baile Átha Cliath 1	Dublin 1
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COMHAIRLE  
CONTAE AN CHLÁIR

CLARE  
COUNTY COUNCIL

REGISTERED POST

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

Issued by  
email 5/11  
and post 6/11

5<sup>th</sup> November 2020

Your Reference: ABP-308442-20

**Section 5 referral Reference R20-44**

**Whether the construction of a fence, a pedestrian gate and a vehicular gate on a road at Doonass, Clonlara Co. Clare is or is not development and is or is not exempted development.**

A Chara,

I refer to your correspondence dated 20<sup>th</sup> October 2020 re the above referral from Clare County Council.

- i. There are no previous planning decisions on this site.
- ii. As no declaration was issued by Clare County Council to the applicant, no correspondence has issued, save for the item at no. iv below
- iii. The owner of the land is the Office of Public Works and the occupier is a Derek Cox and Michelle Caffrey,
- iv. See attached letters of notification to the owner/occupiers, along with notice to the applicant seeking the Section 5 Declaration.
- v. The request for a Section 5 Declaration was received by the Planning Authority on 29<sup>th</sup> September, and had it not been referred to ABP would have been due to be issued on 27<sup>th</sup> October 2020.

Mise, le meas

Angela O'Sullivan  
Staff Officer  
Planning Department  
Economic Development Directorate

An Roinn Pleanála

An Stiúirthóireacht Forbairt Gheilleagrach

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

Planning Department

Economic Development Directorate

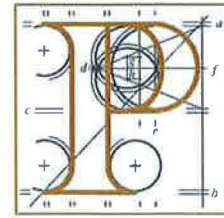
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2





**Our Case Number:** ABP-308442-20

**Planning Authority Reference Number:** R2044



**An  
Bord  
Pleanála**



Clare County Council  
Planning Department  
New Road  
Ennis  
Co. Clare



**Date:** 20 October 2020

**Re:** Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road is or is not development and is or is not exempted development.  
Former Anglers Rest, Doonass Demense, Clonlara, Co.Clare, V94 K735

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).

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.

<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>	www.pleanala.ie
<b>Ríomhphost</b>	<b>Email</b>	bord@pleanala.ie

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

Yours faithfully,



Doina Chiforescu  
Administrative Assistant  
Direct Line: 01-8737133

BPRL01PA

**Teil**  
**Glaio Áitiúil**  
**Facs**  
**Láithreán Gréasáin**  
**Ríomhphost**

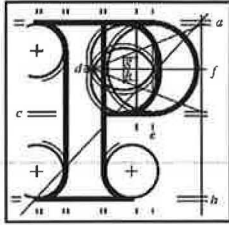
**Tel**  
**LoCall**  
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**Email**

(01) 858 8100  
1890 275 175  
(01) 872 2684  
[www.pleanala.ie](http://www.pleanala.ie)  
[bord@pleanala.ie](mailto:bord@pleanala.ie)

64 Sráid Maoilbhríde  
Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902





An  
Bord  
Pleanála

Táille Reachtúil  
Statutory Receipt

<b>Ainm an Chustaiméara:</b> <b>Name of Customer:</b>	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-031646-20
<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>	19/10/2020
<b>Faighte ag:</b> <b>Received by:</b>	Ellen Moss

Teil  
Glao Áitiúil  
Facs  
Láithreán Gréasáin  
Ríomhphost

Tel (01) 858 8100  
LoCall 1890 275 175  
Facs (01) 872 2684  
Website www.pleanala.ie  
Email bord@pleanala.ie

64 Sráid Maoilbhríde  
Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

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

**16<sup>TH</sup> July 2020**

**Section 5 referral Reference R20-44**

**Whether the construction of a fence, a pedestrian gate and a vehicular gate on a road at Doonass, Clonlara Co. Clare is or is not development and is or is not exempted development.**

A Chara,

The Planning Authority has received a Section 5 declaration with respect to the above 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

**Angela O'Sullivan**  
**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



# Postal Money Order

POST

DO-AISTRITHE/NOT NEGOTIABLE

Cuntas an local  
Account Payee

NÓ Iníochta ag Oifig Phoist  
OR Payable at a Post Office



DATA/DATE 15-October-2020

Amt not exceeding  
ONE HUNDRED AND ELEVEN EURO

ÍOC PAY *An Bord Ieirwaka*

MÉID	AMOUNT	10 000	1000	100	10	1	¢
		XXXXX	XXXXX	ONE	ONE	ZERO	00

€ EUR110.00XXXXXX

AG AT

INIÓCHTA I bPOBLAcht NA hÉIREANN AMHAIN. PAYABLE IN THE REPUBLIC OF IRELAND ONLY.  
Uaslúach Miondíola €650 Maximum Retail Value €650.



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

<b>FILE REF:</b>	R20-44
<b>APPLICANT(S):</b>	Fiona Mac Carthy
<b>REFERENCE:</b>	Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road at Doonass, Clonlara is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Former Anglers Rest , Doonass, Co. Clare.
<b>DATE:</b>	14 <sup>th</sup> October 2020

**Note:**

I refer to the referral as received above.

I consider that this matter should be referred to An Bord Pleanala for determination in particular regarding whether the works obstruct a public right of way, under the Act and whether the proposal therefore constitutes development which is not exempted development . I have prepared a submission to the Board separately.

I recommend that we write to the applicant as follows:

*I refer to your Section 5 declaration as received by the Planning Authority on the 29th September 2020.*

*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 Pleanala for a determination under Section 5(4) of the Planning and Development Act, 2000, as amended,*

*The Planning Authority will update in due course upon receipt of a decision from the Board.*

I recommend that we write to the owners of the site as follows:

*I wish to advise that the Planning Authority has received a Section 5 declaration with respect to the construction of a fence, pedestrian gate, and vehicular gate at your property at Doonass, Co. Clare.*

*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 Pleanala for a determination under Section 5(4) of the Planning and Development Act, 2000, as amended,*

*The Planning Authority will update in due course upon receipt of a decision from the Board.*

  
E.P.

**Date: 14<sup>th</sup> October 2020**

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

<b>FILE REF:</b>	<b>R20-44</b>
<b>APPLICANT(S):</b>	Fiona Mac Carthy
<b>REFERENCE:</b>	Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road at Doonass, Clonlara is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Doonass, Clonlara, County Clare
<b>DUE DATE:</b>	27 <sup>th</sup> October 2020

**Introduction**

Clare County Council received a Section 5 declaration from Fiona MacCarthy, with respect to works at Doonass, Clonlara, Co. Clare. In accordance with Section 5(4) of the Planning and Development Act 2000 (as amended), Clare County Council requests a declaration from An Bord Pleanála in respect of the following:

*'Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road at Doonass, Clonlara is or is not development and is or is not exempted development'.*

**Site Location**

The subject site is located at Doonass Clonlara. The site is not zoned and is located in an area under strong urban pressure. The site lies adjacent to the Lower River Shannon SAC site code 002165.

The site comprises the former 'Anglers Rest' building and associated curtilages of walls and fencing and adjoining road which provides access to the river via land in an OPW folio. ( See map ). There is a graveyard situated on the eastern side of the road.

**Planning History on Site**

None

**Enforcement History**

None

**Referral History**

None

**Background to Referral**

The applicant is seeking a Section 5 Declaration as to whether the construction of a fence, a pedestrian gate and vehicular gate is or is not development and is or is not exempted development.

The application comprises:

- A completed application form and signatures.
- Background information regarding the construction of the development whereby it is stated that the development carried out is blocking/ obstructing access to the amenity of the river near Angler's rest cottage.
- Drawing no D – 120920-01 scale 1 : 250
- Drawing no. D-120920-2 site location map scale 1 : 2500.

### **Statutory Provisions**

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

Sections 2 and 3 of the Act state the following with respect to 'works' and 'development':

"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.

*"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.*

#### **Planning and Development Regulations 2001, as amended**

**Article (6)(1)** of the Planning and Development Regulations 2001, as amended, 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 2.

**SCHEDULE 2 Article 6 PART 1- General – Class 11** describes classes of development which are exempted development, provided that such development complies with the conditions and limitations expressed at Column 2 for each class.

#### **Class 11**

The construction, erection, lowering, repair or replacement other than within or bounding the curtilage of a house of

(a) any fence ( not being a hoarding or sheet metal fence)

(b) any wall of brick, stone, blocks with decorative finish other concrete blocks or mass concrete.

Limitations

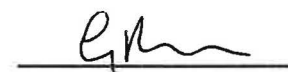
1. The height of any new structure shall not exceed 1.2m or the height of the structure being replaced, which ever is the greater, and in any event shall not exceed 2m.
2. Every wall , other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete block ( other than a blocks of decorative finish) which will be visible from any road, path or public area including public open space , shall be rendered or plaster.

**Article 9** of the Regulations sets out a number of 'de-exemptions' that apply whereby development to which article 6 relates shall not be exempted development for the purposes of the Act .

**Conclusion**

In light of the details and content of the declaration as received, and in accordance with Section 5 (4) of the Planning and Development Act, 2000, as amended, the Planning Authority now wish to refer the above question to the Board for determination.

  
Executive Planner  
Date: 16-10-20 .

  
A/Senior Executive Planner  
Date: 16/10/20 .





COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Fiona MacCarthy**  
Doonass Demense  
Clonlara  
Co Clare

29<sup>th</sup> September 2020

**Section 5 referral Reference R20-44 in the name of Fiona MacCarthy  
Whether to construction of a fence, a pedestrian gate and a vehicular gate on the road  
at Doonass, Clonlara Co. Clare is or is not development and is or is not exempted  
development.**

A Chara,

I refer to your application received on 29<sup>th</sup> September, 2020 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

**Siobhan Mungovan**  
Clerical 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



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><u>Fiona MacCarthy</u></p> <p><u>Doonass Demense</u></p> <p><u>Clonlara</u></p> <p><u>Co Clare</u></p> <p><u>V94 NX 8A</u></p>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<p><u>Denis McKeon</u></p> <p><u>Dromeen</u></p> <p><u>Clonlara</u></p> <p><u>Co Clare</u></p> <p><u>V94 P5 V2</u></p>



## 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?

Is the construction of a fence, a pedestrian gate and a vehicular gate on a road, development, and if so is it exempted development, location of which is Doonass, Co. Clare.

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

Please see A3 drawing no. D-120920-1. The 3 items referred to at (a) above are labelled 'NEW FENCE', 'NEW GATE' & 'NEW PEDESTRIAN GATE'. These 3 items were constructed during the Covid 19 lockdown without consultation of neighbours, the local community or any of the various groups that enjoy the amenities of the river and the walks that these 3 items now block. The occupants of the former 'Angels Rest' are responsible for this construction and subsequent locking of the gates, thus preventing the enjoyment of the aforementioned amenities for the first time in history according to locals. It is inconceivable that locals, the people of Clare and Limerick, returning natives, students both young and old, carers and tourists alike could be denied this beautiful and valuable amenity without the benefit of the planning process or even the basic gesture of neighbourly consultation.

- (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)*

Drawing number D-120920-1 is a detailed plan at scale 1:250 and D-120920-2 is an OS site location map at scale 1:2500.



3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Former Angler's Rest, Doonass Demense, Clonlara, Co Clare V94 K735
(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
(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>	Derek Cox, Michelle Caffrey Former Angler's Rest Doonass Demense, Clonlara Co Clare V94 K735
(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:	Michael Mason on 12.01.2000 Ref. No. 0030
(h) Date on which 'works' in question were completed/are likely to take place:	Not known.

SIGNED:

*Frane Mac Carr*

DATE:

19-9-'20

**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

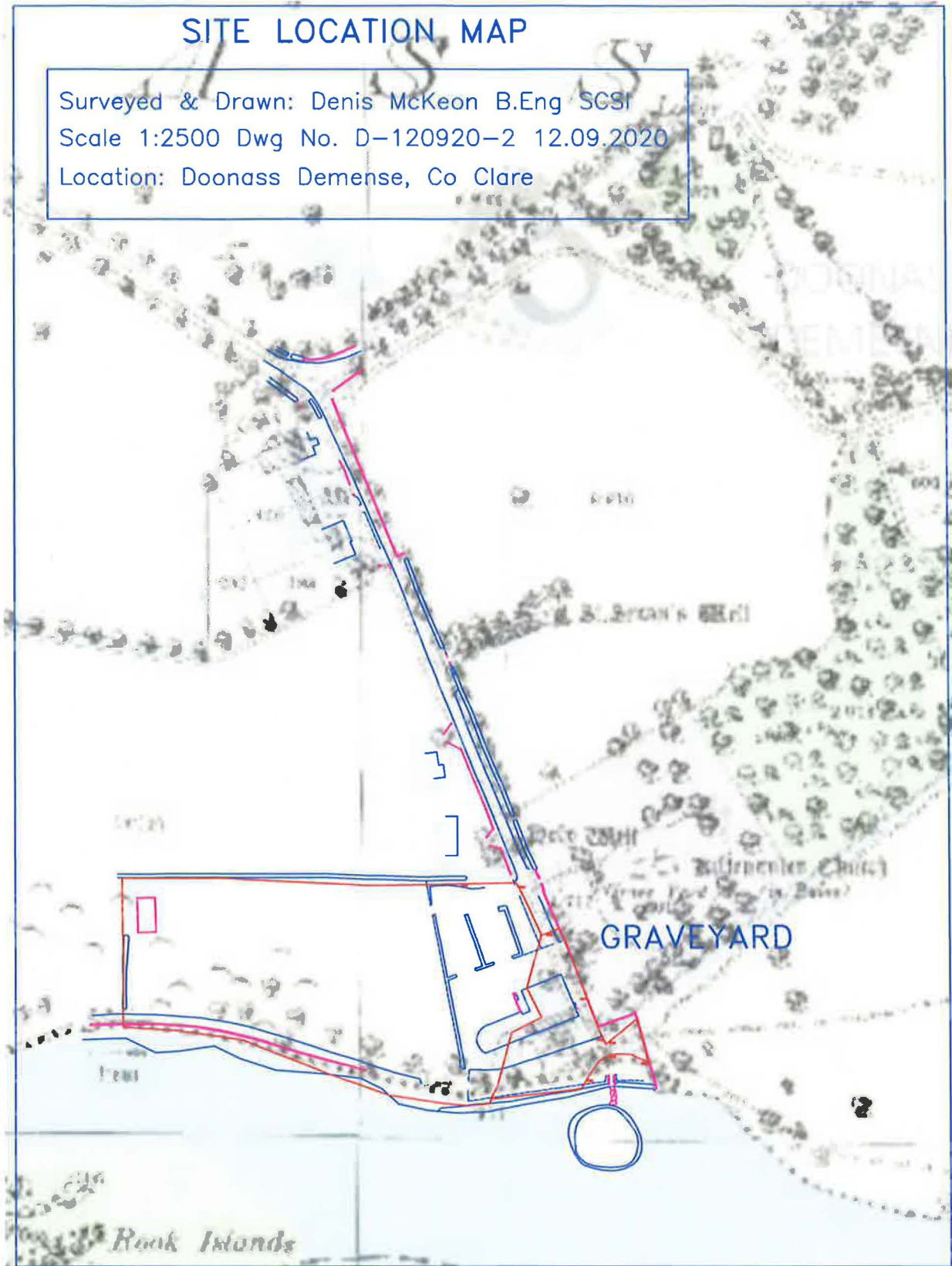
- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information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

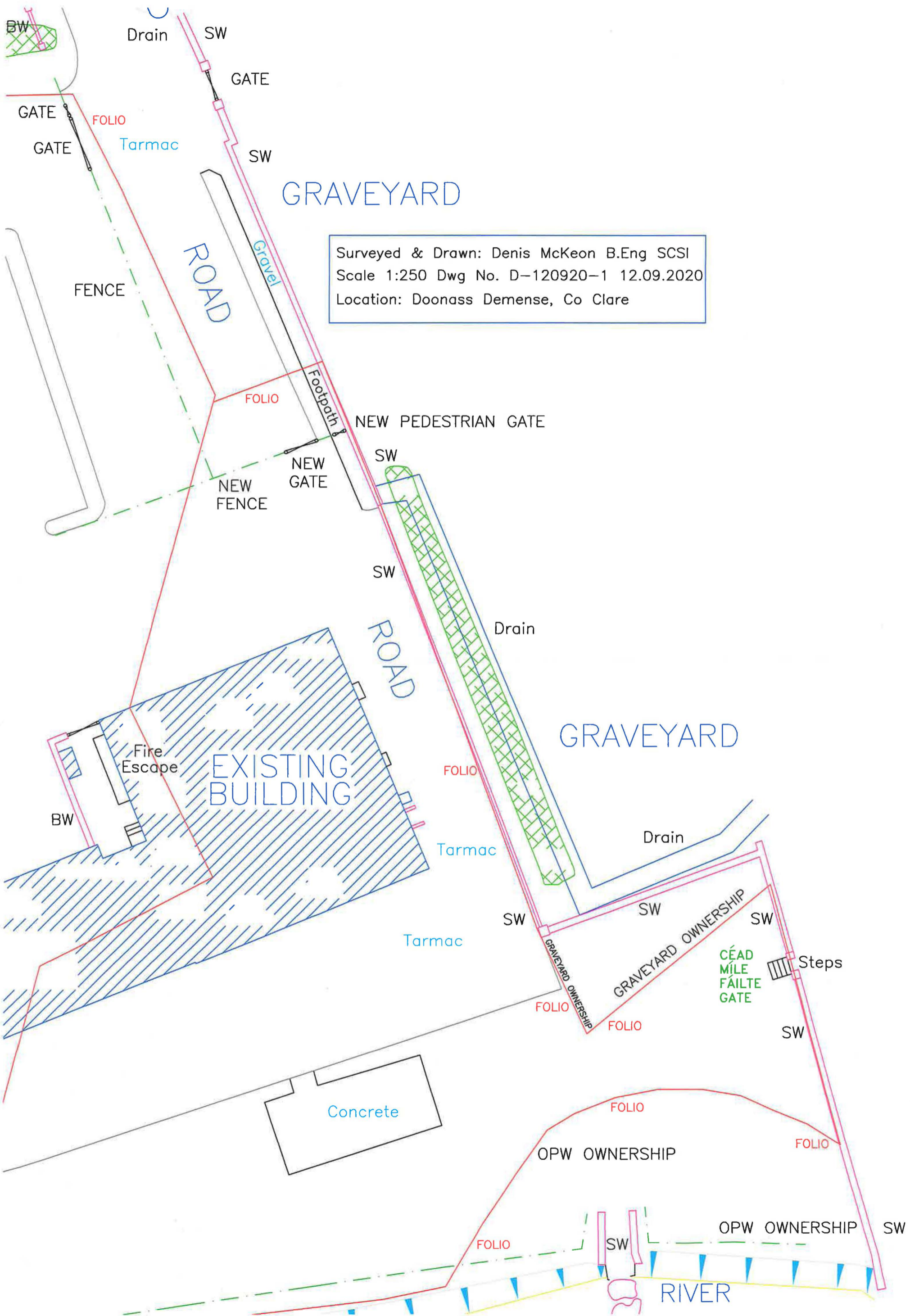
## SITE LOCATION MAP

Surveyed & Drawn: Denis McKeon B.Eng SCSi  
Scale 1:2500 Dwg No. D-120920-2 12.09.2020  
Location: Doonass Demense, Co Clare



- see R20-45 - adjacent to Graveyard.  
00/30.  
ppi 06/142.  
ppi 09/155.  
wet grass low habitat.  
recorded mammal 2000 of  
habitation - Graveyard had  
outcrops low way.  
low rise show site.





Surveyed & Drawn: Denis McKeon B.Eng SCSi  
 Scale 1:250 Dwg No. D-120920-1 12.09.2020  
 Location: Doonass Demense, Co Clare



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



29/09/2020 14:57:00

Receipt No. : LCASH/0/307041  
REPRINT

FIONA MACCARTHY  
DOONASS,DEMENSE  
CLONLARA  
CO. CLARE  
V94 NX5

COMHAIRLE  
CONTAE

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

AN CHLAIR

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

Change : 0.00

Issued By : LCASH - Noelette Barry  
From : MAIN CASH OFFICE LODGEMENT AREA  
Vat reg No.0035043E

