



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Anne Ryan
Fairfield
Lemenagh More
Newmarket-on-Fergus
Co. Clare
V95 Y4A0

1st July 2025

Section 5 referral Reference R25-45 – Anne Ryan

Is the shed constructed to the rear of the dwelling house development and if so, is it exempted development?

A Chara,

I refer to your application received on 5th June 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to An Coimisiún Pleanála of the required fee, refer a declaration for review by An Coimisiún Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie.

Mise, le meas

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

An Roinn Pleanála

An 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



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

Reference No.: R25-45



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R25-45

Is the shed constructed to the rear of the dwelling house development and if so, is it exempted development?

AND WHEREAS, Anne Ryan has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001, as amended and the conditions and limitations as apply.
- (d) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

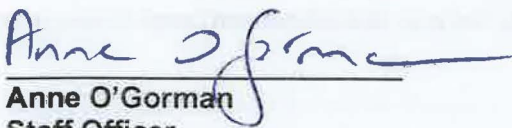
- (a) The construction of the subject shed to the rear of the referrers dwelling at Lemenagh More, close to Newmarket on Fergus County Clare, as per the details submitted, constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended and constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (b) Having regard to the exempted development provisions as per Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001 (as amended) and the conditions and limitations as apply to this class of exempted development, wherein it is noted that the subject shed, with a floor area of 33.66m² exceeds the maximum floor area for a shed to be considered under this exemption (with the exemption applying to a floor area of 25m² only) and wherein it is noted that the materials as used on these do not conform with those of the dwelling on this site. In addition there is an existing garage on this site.
- (c) Having regard to the restrictions on exempted development as per Article 9 of the Planning and Development Regulations 2001 (as amended) specifically Article 9(1) (c) (vi) of the Planning and Development Regulations wherein development which may consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the

local area plan or the draft development plan or draft local area plan, cannot be considered to be exempted development.

- (d) Having regard to the provisions of CDP 16.8, Features and objects of Archaeological Interest and CDP 16.10 'Zones of Archaeological Potential' of the Clare County Development Plan 2023-2029 and the location of the subject shed partially within the zone of archaeological potential of a recorded monument that lies to the east of this property.

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

The proposed development consisting of the shed that has been constructed to the rear of the referrers dwelling house at Fairyfield, Lemenaghmore, Newmarket-on-Fergus, Co. Clare constitutes development which is not exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

1st July 2025

CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No: 85810

Reference Number: **R25-45**

Date Referral Received: **5th June 2025**

Name of Applicant: **Anne Ryan**

Location of works in question: **Fairyfield, Lemenagh More, Newmarket-on-Fergus, Co. Clare**

Section 5 referral Reference R25-45 – Anne Ryan

Is the shed constructed to the rear of the dwelling house development and if so, is it exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001, as amended and the conditions and limitations as apply.
- (d) The works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of the subject shed to the rear of the referrers dwelling at Lemenagh More, close to Newmarket on Fergus County Clare, as per the details submitted, constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended and constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (b) Having regard to the exempted development provisions as per Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001 (as amended) and the conditions and limitations as apply to this class of exempted development, wherein it is noted that the subject shed, with a floor area of 33.66m² exceeds the maximum floor area for a shed to be considered under this exemption (with the exemption applying to a floor area of 25m² only) and wherein it is noted that the materials as used on these do not conform with those of the dwelling on this site. In addition there is an existing garage on this site.
- (c) Having regard to the restrictions on exempted development as per Article 9 of the Planning and Development Regulations 2001 (as amended) specifically Article 9(1) (c) (vi) of the Planning and Development Regulations wherein development which may consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or

ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan, cannot be considered to be exempted development.

- (d) Having regard to the provisions of CDP 16.8, Features and objects of Archaeological Interest and CDP 16.10 'Zones of Archaeological Potential' of the Clare County Development Plan 2023-2029 and the location of the subject shed partially within the zone of archaeological potential of a recorded monument that lies to the east of this property.

ORDER: Whereas by Chief Executive's Order No. HR 343 dated 19th May 2025, Gordon Daly, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Garreth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Garreth Ruane, Senior Executive Planner, hereby declare that the shed that has been constructed to the rear of the referrers dwelling house at Fairyfield, Lemenaghmore, Newmarket On Fergus, Co. Clare is considered development which is not exempted development.

Signed:


GARRETH RUANE
SENIOR EXECUTIVE PLANNER

A2


Date:

1st July 2025

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: R25-45
APPLICANT(S): Anne Ryan
REFERENCE: Is the shed that has been constructed to the rear of the referrers dwelling house development, and, if so, is it exempted development.
LOCATION: Fairyfield, Lemenagh More, Newmarket on Fergus, County Clare.
DUE DATE: 02nd July 2025

Site Location

The subject site and property are located within the designated cluster of Leamaneigh More, Close to Newmarket on Fergus County Clare. There is a single storey dwelling on this site, with a larger domestic garage constructed to the side of the dwelling and a smaller domestic garage constructed to the rear of the dwelling. This property is directly adjacent to a building that was formerly in use as a public house, 'The Bells fort Inn' and what is now in use as accommodation.

Planning History on this site

- 07-2010

Anne & Seamus Ryan	Lemenaghmore Newmarket-on-Fergus Co. Clare	to extend and renovate existing dwelling house including all associated site works/services
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Permission was granted subject to conditions.

- 07-358

Anne & Seamus Ryan	Lemenaghmore Newmarket-on-Fergus Co. Clare	to extend and renovate existing dwellinghouse including all associated site works/services
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Permission was granted subject to conditions.

- 90-22

Seamus martin Ryan	Leamareigh Rd Newmarket-on- Fergus Co. Clare	Permission to construct dwellinghouse with septic tank and commercial garage
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Permission was granted subject to conditions.

County Development Plan policy

As per the Clare County Development Plan 2023-2029 the subject site is designated as being within a rural cluster where the following objective of the CDP applies;

Clusters

These are the smallest type of settlement in the hierarchy and their character reflects traditional building patterns with a loose collection of rural dwellings, clustered around one or more focal points. Focal points may include existing rural houses around a crossroad or a community or social facility such as a shop, school, church or post office. The strategy for these settlements is to facilitate a small number of additional dwellings and/or small enterprises to consolidate the existing pattern of development around the focal points and utilise existing services in the area. To meet the needs of those wishing to settle in rural areas, the provisions of Objective CDP 4.14 (i.e. Social or Economic Housing Need requirement) will not apply to applicants for single houses within the designated cluster boundaries.

Development Plan Objective:

Clusters

CDP 4.9

It is an objective of Clare County Council:

To ensure that clusters throughout the county maintain their existing character providing only for very small scale growth of dwellings and/or small enterprises where they can be suitably integrated with respect to the setting and context.

It is noted that there is a recorded monument reference CLO 51-073 located to the rear/ east of this property- this is a ringfort/ rath, and part of the site of the subject property, including part of where the subject shed has been constructed, is within the zone of notification for this recorded monument/ zone of archaeological potential for this recorded monument.

Development Plan Objective: Sites, Features and Objects of Archaeological Interest	
CDP16.8	<p>It is an objective of Clare County Council:</p> <p>a) To safeguard sites, features and objects of archaeological interest generally;</p> <p>b) To secure the preservation (i.e. preservation in situ or in exceptional cases preservation by record) of all archaeological monuments included in the Record of Monuments and Places as established under Section 12 of the National Monuments (Amendment) Act, 1994, and of sites, features and objects of archaeological and historical interest generally;</p> <p>c) In securing such preservation, to have regard to the advice and recommendations of the Department of the Culture, Heritage and the Gaeltacht;</p> <p>d) To have regard to the government publication Framework and Principles for the Protection of the Archaeological Heritage 1999 in relation to protecting sites, features and objects of archaeological interest; and</p> <p>e) To advocate for greater financial assistance for the maintenance and improvement of features of archaeological interests in County Clare.</p>

Development Plan Objective: Zones of Archaeological Potential	
CDP16.10	<p>It is an objective of Clare County Council:</p> <p>To protect the Zones of Archaeological Potential located within both urban and rural areas as identified in the Record of Monuments and Places.</p>

Background to Referral

This Referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Anne Ryan, the stated that he is the owner of the property.

The applicant is seeking a Section 5 Declaration as to whether;

The shed that has been constructed to the rear of the referrers dwelling house is development, and if so, is it exempted development.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

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

'Works' are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Article 6(1) of the Planning & Development Regulations, 2001, as amended

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 3

"The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

1. *No such structure shall be constructed, erected or placed forward of the front wall of a house.*
2. *The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*
3. *The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.*
4. *The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*
5. *The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.*
6. *The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.*

Under Article 9 (1) of the same Regulations, development to which Article 6 relates shall not be exempted development for the purposes of the Act:

1. if the carrying out of such development would –

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

(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

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

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

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,

(vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

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

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

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

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

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

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been

specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the shed that has been constructed to the rear of the referrers dwelling house is development, and if so, is it exempted development.

Particulars of Proposal

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

- Height 7ft / 2.13m
- Floor Area 33ft x 11 ft (10.05m x 3.35m= 33.66m²)
- Use As a private art studio and for art storage.

Having regard to Section 2(1) of the Planning and Development Act 2001 (as amended), I consider that the subject development, comes within the scope of "works" and hence constitutes development in accordance with Section 3(1) of the Planning and Development Act 2001 (as amended).

The referral relates to the construction of domestic shed structure. The proposed development is therefore assessed in the context of Schedule 2, Part 1, Class 3 of the Planning and Development Regulations.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 3

The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

1. *No such structure shall be constructed, erected or placed forward of the front wall of a house.*

The subject shed is located to the side and rear of the dwelling, this is acceptable.

2. *The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*

The floor area of the subject shed is 33m², which exceeds the limitations of the exemption. There is also an existing domestic garage on this site.

3. *The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.*

The remaining private open space will be greater than 25m².

4. *The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*

The shed is to the side and rear of the house. The materials used on the subject shed do not conform with those of the dwelling on this site.

5. *The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.*

The shed has a pitched roof and is 2.3m in height.

6. *The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.*

Noted, this has been complied with and the shed is in use for uses ancillary to the house.

Article 9(1)(c) of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

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

Noted. The subject shed does not contravene any condition.

- (ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

Not applicable to the current proposal.

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

The proposed development will not create a traffic hazard in the area.

- (iv) *interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

The proposed development will be located in the rear garden of a dwelling and is not visible from anywhere outside of the site.

- (v) *consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

Not applicable in this instance.

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

The location of the subject she is within the zone of notification/ zone of archaeological potential of a recorded monument- a Rath or a fort. Having regard to the details as submitted, it is unclear if the construction of the shed has consisted of any excavation or if it had any impact on any ~~Nature 2000~~ site. It is considered that the above restriction on exempted development applies in this case. *archaeology*

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

Noted. Not applicable in this case.

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

Having regard to the nature, scale and location of the proposed development, the likely zone of influence is no greater than 1km.

There are no European sites within 1km of the proposed development location.

In the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site.

Appropriate assessment is not therefore required and the above restriction on exempted development does not apply.

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

This is not applicable in this instance.

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

Not applicable in this instance.

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

This is not applicable in this instance.

- (x) *consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

This is not applicable in this instance.

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

This is not applicable in this instance.

- (xii) *further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.*

This is not applicable in this instance.

Recommendation

The following question has been referred to the Planning Authority:

Is the shed that has been constructed to the rear of the referrers dwelling house is development, and if so, is it exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001, as amended and the conditions and limitations as apply.
- (d) The works as indicated in submitted documents from the referrer.

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

- (a) The construction of the subject shed to the rear of the referrers dwelling at Leamaneigh More, close to Newmarket on Fergus County Clare, as per the details submitted, constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended and constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (b) Having regard to the exempted development provisions as per Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001 (as amended) and the conditions and limitations as apply to this class of exempted development, wherein it is noted that the subject shed, with a floor area of 33.66m² exceeds the maximum floor area for a shed to be considered under this exemption (with the exemption applying to a floor area of 25m² only) and wherein it is noted that the materials as used on these do not conform with those of the dwelling on this site. *In addition there is an existing garage on this site.*
- (c) Having regard to the restrictions on exempted development as per Article 9 of the Planning and Development Regulations 2001 (as amended) specifically Article 9(1) (c) (vi) of the Planning and Development Regulations wherein development which may consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan, cannot be considered to be exempted development.
- (d) Having regard to the provisions of CDP 16.8, 'Features and objects of Archaeological Interest' and CDP 16.10 'Zones of Archaeological Potential' of the Clare County Development Plan 2023-2029 and the location of the subject shed partially within the zone of archaeological potential of a recorded *monument* that lies to the east of this property.

It is considered that the subject shed is development and is not exempted development.

Therefore Clare County Council (Planning Authority), hereby decides that the shed that has been constructed to the rear of the referrers dwelling house at fairy field Lemenaghmore Newmarket On Fergus County Clare is development and is not exempted development.

A McCarthy *exec planner*
Executive Planner

Date: 30-06-25

[Signature]
Senior Executive Planner

Date: 01/07/25.

Inside of shed



Outside of shed





COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Anne Ryan
Fairfield
Lemenagh More
Newmarket-on-Fergus
Co. Clare
V95 Y4A0

06/06/2025

Section 5 referral Reference R25-45 – Anne Ryan

Is the shed constructed to the rear of the dwelling house development and if so, is it exempted development?

A Chara,

I refer to your application received on 5th June 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An 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
CONTAE

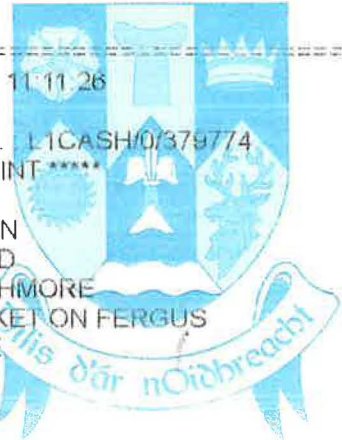
AN CHLÁIR

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

05/06/2025 11:11:26

Receipt No. L1CASH/0/379774
***** REPRINT *****

ANNE RYAN
FAIRYFIELD
LEMENAGHMORE
NEWMARKET ON FERGUS
CO CLARE



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

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change : 0.00

Issued By : L1CASH - Rachael Barrett
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No.0033043E



P07

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

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

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



CLARE
COUNTY COUNCIL

05 JUN 2025

Received
Planning Section

R25-45

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

FEE: €80

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

1. CORRESPONDENCE DETAILS.

(a) Name and Address of person seeking the declaration

ANNE RYAN

FAIRFIELD

LEMONASHMORE

NEWMARKET-ON-FERGUS COUNTY CLARE

V95 Y4A0

(b) Telephone No.:

(c) Email Address:

NONE

(d) Agent's Name and address:

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.

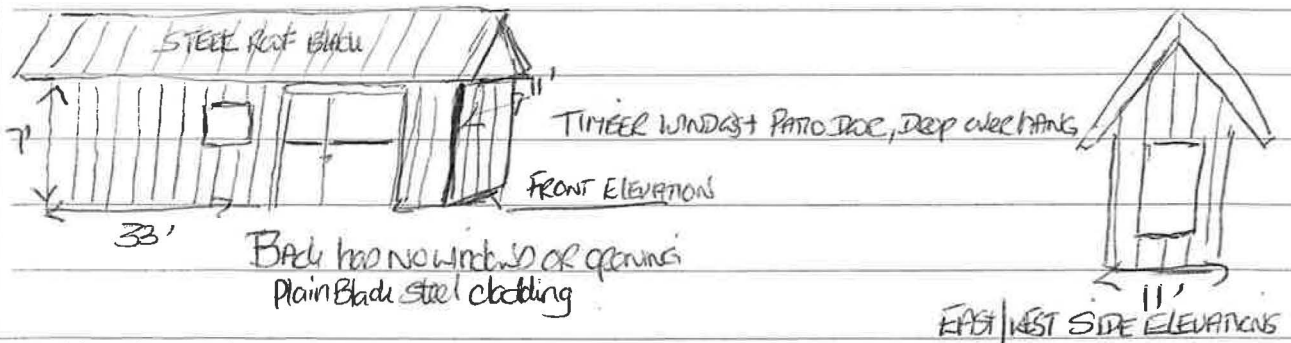
Sample Question: Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?

Is the shed constructed to the rear of the dwelling house development and if so, is it exempted development?

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

The shed in question is built with pressure treated pine it was supplied by Botanica (see brochure). It is approx 33' x 11' and 7' in height, it was always too dark inside for an artist studio - so I could only use it for storage for all my art projects as I taught at Millford National School for 12 years also Monk's Nursing Home, hence I could work on preparation and leave projects to set, dry, or cure and hook up and carry on the following day. The shed were very badly and got dry rot at one end between house and alley way. A carpenter looked at it and advised cladding black steel from Kilrush Co Clare which saved it.

If I were to sell up and downsize I wouldn't care if planning permission was needed.



- (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)

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT

(a) Postal Address of the Property/Site/Building for which the declaration sought:	FAIRFIELD KENNEDYMORE NEWMARKET-ON-FERGUS CO. CLARE V95 Y4 A0
(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>	N/A
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	NA
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	No
(g) Were there previous planning application/s on this site? If so please supply details:	No
(h) Date on which 'works' in question were completed/are likely to take place:	2006 approx (2006)

SIGNED:



DATE:

2nd June '25

GUIDANCE NOTES

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

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

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

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

FOR OFFICE USE ONLY

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

Surveyed 1840
Revised 1952
Levelled 1952

Record PLACE Map



ITM CENTRE PT COORDS

538821,665610

DESCRIPTION

MAP SHEETS

6 inch
CE051



Produced by Mid-West Maps,
94A Henry Street, Limerick City
On behalf of Ordnance Survey Ireland,
Phoenix Park, Dublin 8.

Sáiríonn aitheascadh neamhúdarthaíocht co-pheacht
Shuirbhéireacht Ordánais Éireann agus
Rialtas na hÉireann.
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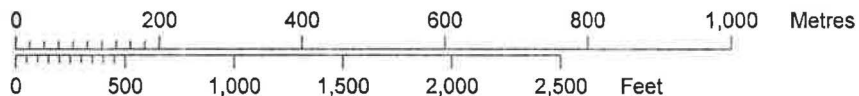
Gach cead cosnamh. Ní ceadmhach aor chuid
den fhóilseachán seo a chóipeáil, a aitheascadh nó
a tharchur in aon bhoim ná ar aon bhealach gan
cead i scríbhinn mionn ré ó úinéir an chóipchirt.
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0702-01

Scale:- 1:10,560
Scála:- 1:10,560



Plot Ref. No. 1174676_1
Plot Date 12-DEC-2006