



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Michael Mullins
C/o Jerry Martin
PEMCAS Ltd
Portal House
Raheen Business Park
Co. Limerick, V94 FHX7

21st February 2025

Section 5 referral Reference R25-9 – Michael Mullins

Is the construction of a mezzanine floor within an existing building to store critical plant spare parts deemed to be development, and if so, is it exempted development?

A Chara,

I refer to your application received on 28th January 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 Bord Pleanála of the required fee, refer a declaration for review by An Bord 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



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:

84986

Reference Number:

R25-9

Date Referral Received:

28th January 2025

Name of Applicant:

Michael Mullins

Location of works in question:

Smithstown Industrial Estate, Shannon,
Co. Clare

Section 5 referral Reference R25-9 – Michael Mullins

Is the construction of a mezzanine floor within an existing building to store critical plant spare parts deemed to be 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) Class 22 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 28th January 2025.

AND WHEREAS Clare County Council has concluded:

- (a) The development of the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, County Clare, constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The said development of the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, County Clare, is not exempted development having regard to Class 22 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, as said exemption only applies to the actual use of an area for storage purposes and not to the carrying out of physical works.

ORDER: Whereas by Chief Executive's Order No. HR 46 dated 1st January 2025, Carmel Kirby, Interim 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 Gareth 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, Gareth Ruane, Senior Executive Planner, hereby declare that the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, Co. Clare is considered development which is not exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

21st February 2025

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

Reference No.: R25-9



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R25-9

Is the construction of a mezzanine floor within an existing building to store critical plant spare parts deemed to be development, and if so, is it exempted development?

AND WHEREAS, Michael Mullins 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 –

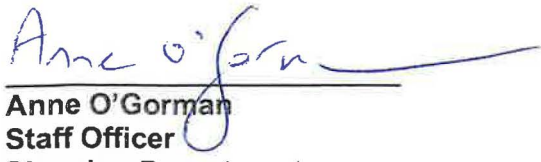
- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 22 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 28th January 2025.

And whereas Clare County Council has concluded:

- (a) The development of the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, County Clare, constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The said development of the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, County Clare, is not exempted development having regard to Class 22 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, as said exemption only applies to the actual use of an area for storage purposes and not to the carrying out of physical works.

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

The proposed development consisting of the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

A handwritten signature in blue ink, reading "Anne O'Gorman", with a long horizontal flourish extending to the right.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

21st February 2025

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT 1

FILE REF:	R25-9
APPLICANT(S):	Michael Mullins
REFERENCE:	Whether the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, County Clare is not development and is or is not exempted development.
LOCATION:	Smithstown Industrial Estate, Shannon, County Clare
DUE DATE:	24 th February 2025

Site Location

The proposal site is located in Shannon and is zoned for "*Light Industry*" as per the Shannon Town and Environs Local Area Plan 2012-2018. The site is located in the west of the Smithstown Industrial Estate. The site accommodates Chemifloc Limited which is a producer of water treatment chemicals. The site is bound to the south by the LP3170 local primary road and to the west by the LP3173 local primary road. The N19 national primary road (dual carriageway) is located to the north of the site. The lands to the east of the site include a mix of different uses within the industrial estate. The main views available towards the site are from the south, west and north. The roadside boundaries to the south, west and north of the site comprise of a mix of hedging, scrub and trees. Overhead power lines traverse the site in an east/west direction.

Recent Onsite Planning History

20-817 – Granted - Chemifloc Ltd - to extend existing covered process area with a 40m.sq. covered unit.

18-1010 – Granted - Chemifloc Ltd - or PERMISSION and for RETENTION permission for the following works at the existing chemicals facility at Smithstown Industrial Estate, Shannon, Co. Clare. Permission for the RETENTION and completion of the following; 1. RETENTION and completion of staff car park (32 no. spaces). 2. RETENTION of truck maintenance buildings and associated truck wash area. 3. RETENTION of truck parking area with 36 HGV parking spaces. 4. RETENTION of pumphouse. PERMISSION for the following; 5. Alterations to the use of previously permitted entrance (reg. ref. 17-436) and provision of improved sight lines etc. 6. Packed goods warehouse. 7. Segregated waste storage area (5 bays). 8. Extension of bunded sodium hypochlorite storage area. 9. 3 No. bulk offload and storage bays. 10. Bunded sulphuric acid storage area and associated tanks. 11. Bunded alum storage area with associated bunded tanker loading and unloading area and associated tanks. 12. Weighbridge and associated office building. 13 New Store. 14. Use of truck parking area as a bunded emergency firewater retention and additional overflow area. 15. Permission for all associated site works and services. Permission is sought for 627.3sq.m of new buildings and RETENTION permission for 118.5 sq.m of existing buildings; a total of 748.8sq.m. This is a

development which requires and already has, an Industrial Emissions Licence (formerly an Integrated Pollution Control Licence).

17-436 – Granted (by Planning Authority)– Chemifloc Ltd - to widen existing entrance/exit road/gates to rear of facility. At appeal An Bord Pleanála determined that condition 2 attached by the Planning Authority should be upheld. Condition 2 of the permission is as follows:

2. (a) Permission is hereby granted to widen the existing entrance/exit road and gates to the rear of the existing Chemifloc plant only. This permission does not provide for additional truck parking or hard surfaced areas within the site.

(b) Use of the subject access shall be limited to emergency and/or maintenance traffic for the existing on site substation only. It shall not be used to facilitate deliveries both to and from the Chemifloc plant.

Reason: Having regard to the nature and extent of the development as described in the public notices and having regard to capacity and width of the L3173 road, it is considered appropriate that the use of the access be restricted.

16-447 – Granted – Chemifloc - to construct as E.S.B. sub station/switch room on the lands at Smithstown Industrial Estate, Shannon.

04-99 – Granted - Shannon Environmental Services - for the construction of a new two-storey office building and two new industrial warehouses on site.

00-998 – Granted – Chemifloc - Extension to existing production building to provide workshop/storage area.

98-10 – Granted – Chemifloc - retention/provision of existing new first floor to previously approved development.

97-150 – Granted – Chemifloc - extension to existing storage/production unit (P96/977) to provide for additional storage area.

96-977 – Granted – Chemifloc - extension to existing facility together with associated site works to provide storage/production unit.

92-1204 – Granted – Chemifloc - construct warehouse/manufacturing unit with yard/storage areas and associated site works at Smithstown, Shannon.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Michael Mullins who is seeking a Section 5 Declaration as to whether the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, County Clare is not development and is or is not exempted development. The applicant is the stated owner of the site.

The building to which the mezzanine is to be added comprises of a store/garage that is located centrally within the Chemifloc site. It has a floor area of 375sqm. The proposed mezzanine would have a floor area of 105sqm.

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.

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 22

Storage within the curtilage of an industrial building, in connection with the industrial process carried on in the building, of raw materials, products, packing materials or fuel, or the deposit of waste arising from the industrial process.

The raw materials, products, packing materials, fuel or waste stored shall not be visible from any public road contiguous or adjacent to the curtilage of the industrial building.

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

- (a) *if the carrying out of such development would –*

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
- (ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,*
- (iii)(a) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
- (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.*
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.”*
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*
- (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for*

recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

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

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, County Clare is not development and is or is not exempted development.

Particulars of Proposal

The particulars of the proposal are set out below. The existing building is used as a store/garage associated with the onsite activities. It is stated that the proposed mezzanine would be used to store critical spare parts. Aside from the site location map and site layout plan no other drawings were received.

Existing store/garage

- Existing floor area 375sqm
- Proposed mezzanine floor area 105sqm

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 22

Storage within the curtilage of an industrial building, in connection with the industrial process carried on in the building, of raw materials, products, packing materials or fuel, or the deposit of waste arising from the industrial process.

The raw materials, products, packing materials, fuel or waste stored shall not be visible from any public road contiguous or adjacent to the curtilage of the industrial building.

The works are proposed internally within an existing industrial building. The above exemption applies to the use only and not to the carrying out of physical works. As such, the proposed mezzanine does not comply with the requirements of the above exemption.

Article 9 of the Planning and Development Regulations 2001, as amended

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

(a) *if the carrying out of such development would –*

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

Not applicable.

- (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.

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

Not applicable.

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

Not applicable.

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

Not applicable. Internal works only.

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

Not applicable.

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

Not applicable.

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

The site is located 1.7 km from the following designations:

- The Lower River Shannon SAC.
- The River Shannon and River Fergus Estuaries SPA.

Having regard to the nature and scale of the proposed development, and on the basis of the available information I consider that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European Site. An appropriate assessment screening report and determination is attached to this report.

(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."

The proposed development would not be likely to have an adverse impact on an area designated as a natural heritage area.

(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.

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

Not applicable.

(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,

Not applicable.

(xi) obstruct any public right of way,

Not applicable.

(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.

Not applicable.

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, County Clare is not development and is or is not exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 22 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 28th January 2025.

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

- (a) the development of the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, County Clare, constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) the said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.

- (c) the said development of the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, County Clare, is not exempted development having regard to Class 22 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, as said exemption only applies to the actual use of an area for storage purposes and not to the carrying out of physical works.

Now therefore Clare County Council (Planning Authority) hereby decides that the construction of a mezzanine floor within an existing building to store critical spare parts at Smithstown Industrial Estate, Shannon, County Clare is development and is not exempted development.


Executive Planner
Date: 19th February 2025


Senior Executive Planner
Date: 19/02/25.

Clare County Council

Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

Table 1: Project Details

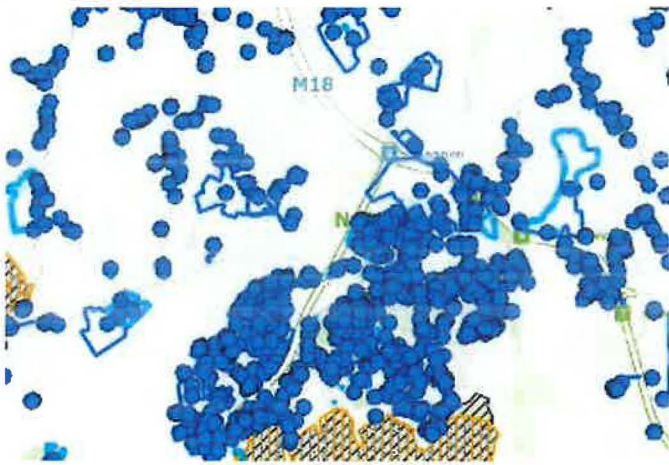
Planning File Reference	R25-9
Applicant Name	Mullins
Development Location	Smithstown Shannon Co Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
Storage mezzanine in existing building	
	

Table 2: Identification of European sites which may be impacted by the proposed development.

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

Table 2 (a): European Sites within 15km of Applicant Site

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Lower River Shannon SAC	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099]	1.7

¹ European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

² European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
	Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355]	
River Fergus and River Shannon	Cormorant (Phalacrocorax carbo) [A017] Whooper Swan (Cygnus cygnus) [A038] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Wigeon (Anas penelope) [A050] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054] Shoveler (Anas clypeata) [A056] Scaup (Aythya marila) [A062] Ringed Plover (Charadrius hiaticula) [A137] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Lapwing (Vanellus vanellus) [A142] Knot (Calidris canutus) [A143] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Greenshank (Tringa nebularia) [A164] Black-headed Gull (Chroicocephalus ridibundus) [A179] Wetland and Waterbirds [A999]	1.7

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	Yes
2	Impacts on terrestrial habitats and species.	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	No
3	Impacts on designated marine habitats and species.	<i>Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	No
4	Impacts on birds in SPAs	<i>Is the development within 1km of a Special Protection Area</i>	No
5	Indirect effects	<i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No impacts envisaged

Appropriate Assessment Screening Determination	
Planning File Reference	R25-09
Proposed Development	Storage mezzanine
Development Location	Smithstown
European sites within impact zone	As per report
Description of the project	
Storage mezzanine	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
Water quality & general disturbance	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Not significant. Small scale development. Significant remove from the designations with no strong direct connections to same.	
Documentation reviewed for making this statement	
NPWS website Plans and particulars received GIS mapping database	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s) ³	No
(b) There is no potential for significant effects to European Sites ³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out ⁴	No

³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

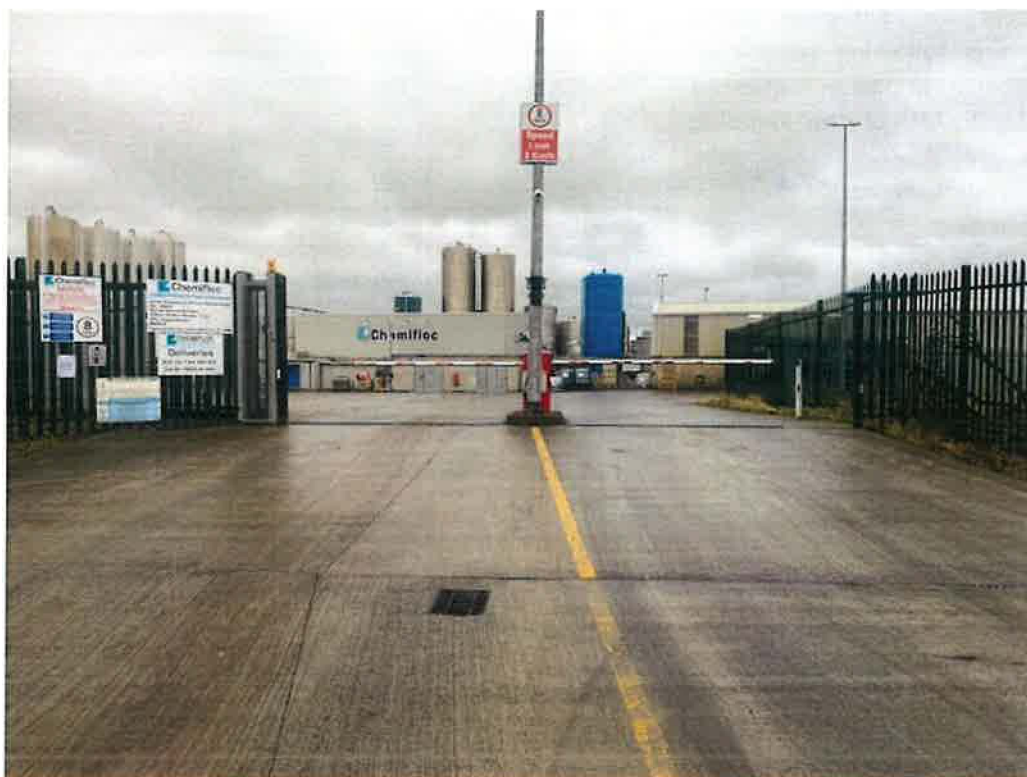
⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	No
Completed By	John O'Sullivan
Date	19 th February 2025

⁵ The proposed development must either by refused planning permission or alternatively an 'Appropriate Assessment' (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an 'appropriate assessment' should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.

Site Inspection Pictures
19th February 2025





COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Michael Mullins
C/o Jerry Martin
PEMCAS Ltd
Portal House
Raheen Business Park
Co. Limerick, V94 FHX7

29/01/2025

Section 5 referral Reference R25-9 – Michael Mullins

Is the construction of a mezzanine floor within an existing building to store critical plant spare parts deemed to be development, and if so, is it exempted development?

A Chara,

I refer to your application received on 28th January 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



AN CHLÁIR

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

29/01/2025 13:10:31

Receipt No. L1CASH/0/374576
***** REPRINT *****

MICHAEL MULLINS
C/O JERRY MARTIN PEMCAS LTD
PORTAL HOUSE,
RAHEEN BUSINESS PARK
CO. LIMERICK

R25-9

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

Total : 80.00 EUR

AN CHLÁIR

Tendered :
CHEQUES 80.00

Change : 0.00

Issued By : L1CASH - DEIRDRE FRENCH
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



R25-9

**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	MICHAEL MULLINS SMITHSTOWN INDUSTRIAL ESTATE, SHANNON, Co. CLARE, V14 VY67
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	JERRY MARTIN. PEMCAS LTD. PORTAL HOUSE, RAHEEN BUSINESS PARK, Co. LIMERICK, V94 FHX7



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 MEZZANINE FLOOR WITHIN AN EXISTING BUILDING TO STORE CRITICAL PLANT SPARE PARTS DEEMED TO BE 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.

CHEMIFLOC GROUP, ESTABLISHED IN 1981, IS AN IRISH-OWNED SPECIALIST IN WATER AND WASTEWATER TREATMENT SOLUTIONS AND BULK CHEMICALS FOR INDUSTRIAL USE. THEY MANUFACTURE, DISTRIBUTE, AND PARTNER WITH MAJOR EUROPEAN SUPPLIERS, MAINTAINING LARGE INVENTORIES AND OPERATING IRELAND'S LARGEST CHEMICAL TANKER FLEET. THEIR PRODUCTS SERVE DIVERSE SECTORS, INCLUDING WATER, WASTEWATER, DAIRY, AND PHARMACEUTICALS.


THE CLIENT INTENDS TO ENHANCE STORAGE CAPACITY BY ADDING A MEZZANINE FLOOR WITHIN THE FOOTPRINT OF AN EXISTING STORAGE BUILDING [375 SQ.M] PRESENT ON SITE. THEY PROPOSE CONSTRUCTING A 105 SQ.M MEZZANINE FLOOR TO CENTRALISE AND SECURELY STORE CRITICAL SPARE PARTS.

A FORMAL DECLARATION IS REQUESTED TO DETERMINE WHETHER OR NOT THIS PROPOSED WORKS IS DEEMED A DEVELOPMENT, AND IF SO, IF IT DEEMED AN EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE PLANNING REGULATIONS.

- (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 @ 1:2500 SCALE PROVIDED.
INDICATIVE SITE LAYOUT @ 1:500 SCALE PROVIDED.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	SMITHSTOWN INDUSTRIAL ESTATE, SHANNON, Co. CLARE, V14 VY67
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	NO
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	OWNER
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	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)?:	YES
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	NO
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	20817 [RECEIVED DATE 04/11/2020] 16447 [RECEIVED DATE 27/07/2016] 181010 [RECEIVED DATE 07/12/2018] 00998 [RECEIVED DATE 11/07/2000] 17436 [RECEIVED DATE 27/07/2017] 96977 [RECEIVED DATE 24/09/1996]
(h) Date on which 'works' in question were completed/are likely to take place:	Q2 2025

SIGNED: 
CHIEF OPERATING OFFICER
CHAMFLOC.

DATE: 22.01.2025

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:.....			

