

COMHAIRLE CLARE CONTAE AN CHLÁIR COUNTY COUNCIL

Registered Post

John Gabriel McCarthy Main St Ennistymon Co. Clare V95 D2F3

18th November 2025

Section 5 referral Reference R25-87 - John Gabriel McCarthy

Is the retention of a mural on the south-elevation on Main St, Ennistymon, Co. Clare, V95 D2F3 development and if so, is it exempted development?

A Chara,

I refer to your application received on 24th October 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

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

Mise, le meas

Anne O'Gorman

Staff Officer

Planning, Placemaking & Economic Development

An Roinn Pleanála An Stiúrthóireacht Forbairt Gheilleagrach

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

Planning Department
Economic Development Directorate

Åras 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: 86655

Reference Number: R25-87

Date Referral Received: 24th October 2025

Name of Applicant: John Gabriel McCarthy

Location of works in question: Main St, Ennistymon, Co. Clare

Section 5 referral Reference R25-87 – John Gabriel McCarthy

Is the retention of a mural on the south-elevation on Main St, Ennistymon, Co. Clare, V95 D2F3 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) Article 8 of the Planning and Development Regulations 2001, as amended,
- (c) The works as indicated in submitted documents from the referrer on 24th October 2025.

AND WHEREAS Clare County Council has concluded:

- (a) The development of the wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street, Ennistymon, 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 wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street, Ennistymon, County Clare is exempted development having regard to Section 4(1)(f) of the Planning and Development Act, 2000 (as amended), as the works cost less than €126,000, and were carried out "on behalf of, or jointly or in partnership with" Clare County Council.

ORDER:

Whereas by Chief Executive's Order No. HR 18 dated 7th October 2025, Gordon Daly, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Garreth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein.

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended)

and having considered the various submissions and reports in connection with the referral described above, I, Garreth Ruane, Senior Executive Planner, hereby declare that the retention of a wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street, Ennistymon, Co. Clare is considered development which is exempted development.

Signed:

GARRETH RUANE

SENIOR EXECUTIVE PLANNER

Date:

18th November 2025

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

Reference No.: R25-87



Section 5 referral Reference R25-87

Is the retention of a mural on the south-elevation on Main St, Ennistymon, Co. Clare, V95 D2F3 development and if so, is it exempted development?

AND WHEREAS, John Gabriel McCarthy 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)Article 8 of the Planning and Development Regulations 2001, as amended,
- (c) The works as indicated in submitted documents from the referrer on 24th October 2025.

And whereas Clare County Council has concluded:

- (a) The development of the wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street, Ennistymon, 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 wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street, Ennistymon, County Clare is exempted development having regard to Section 4(1)(f) of the Planning and Development Act, 2000 (as amended), as the works cost less than €126,000, and were carried out "on behalf of, or jointly or in partnership with" Clare County Council.

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 retention of a wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street, Ennistymon, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

Anne O'Gorman

Staff Officer

Planning, Placemaking & Economic Development

18th November 2025

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

FILE REF:

R25-87

APPLICANT(S):

John Gabriel McCarthy

REFERENCE:

Whether the retention of a wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street, Ennistymon, County Clare is or is not development and is or is not

exempted development.

LOCATION:

Main Street, Ennistymon, County Clare

DUE DATE:

19th November 2025

Site Location

The site is located in the settlement of Ennistymon and is zoned as "Mixed Use" in the Clare County Development Plan 2023-2029. It is within the designated "Town Centre" and is also within the Ennistymon ACA. The site accommodates a prominent corner site on the western side of Main Street. The mural is on the southern side gable of the 2-storey building.

Recent Planning History

Article 10-6 – Reference 24-018 - Change of Use of former auctioneer's office to residential use. This was determined to constitute exempted development.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by John Gabriel McCarthy. Whilst the application is dated the 23rd November 2025 it was actually received on the 24th October 2025. The applicant is seeking a declaration as to whether the retention of a wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street Ennistymon County Clare is or is not development and is or is not exempted development. The applicant is the stated owner of the site.

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 Act 2000 (as amended) - Section 4(1)(f)

The following shall be exempted developments for the purposes of this Act:

(f) development carried out on behalf of, or jointly or in partner ship with, a local authority that is a planning authority pursuant to a contract entered into by the local authority concerned, whether in its capacity as a planning authority or in any other capacity;

<u>Planning & Development Regulations, 2001, as amended Part 8 - (Article 80)(1)(k) - Development prescribed for purposes of section 179 of Act.</u>

Subject to sub-article (2) and sub-section (6) of section 179 of the Act, the following classes of development, hereafter in this Part referred to as "proposed development", are hereby prescribed for the purposes of section 179 of the Act —

(k) any development other than those specified in paragraphs (a) to (j), the estimated cost of which exceeds €126,000, not being development consisting of the laying underground of sewers, mains, pipes or other apparatus.

Assessment

Basis of Referral

Whether the retention of a wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street Ennistymon County Clare is or is not development and is or is not exempted development.

Planning & Development Act 2000 (as amended) - Section 4(1)(f)

The following shall be exempted developments for the purposes of this Act:

(f) development carried out on behalf of, or jointly or in partnership with, a local authority that is a planning authority pursuant to a contract entered into by the local authority concerned, whether in its capacity as a planning authority or in any other capacity;

<u>Planning & Development Regulations, 2001, as amended Part 8 - (Article 80)(1)(k) - Development prescribed for purposes of section 179 of Act.</u>

Subject to sub-article (2) and sub-section (6) of section 179 of the Act, the following classes of development, hereafter in this Part referred to as "proposed development", are hereby prescribed for the purposes of section 179 of the Act —

(k) any development other than those specified in paragraphs (a) to (j), the estimated cost of which exceeds €126,000, not being development consisting of the laying underground of sewers, mains, pipes or other apparatus.

Assessment

The Arts Officer of Clare County Council was informed via email on the 25th July 2024 that "Having regard to the provisions of Section 4(1)(f) of the Planning and Development Act, 2000 (as amended), the Planning Authority has no objection to the proposals". As such, as the works cost less than €126,000, and were carried out "on behalf of, or jointly or in partnership with" Clare County Council, the existing mural on the side of building on the western side of Main Street, Ennistymon, constitutes exempted development.

Recommendation

The following question has been referred to the Planning Authority:

Whether the retention of a wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street, Ennistymon, County Clare is or is not development and is or is not exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Article 8 of the Planning and Development Regulations 2001, as amended
- (c) The works as indicated in submitted documents from the referrer on 24th October 2025

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

- (a) the development of the wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street, Ennistymon, 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 wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street, Ennistymon, County Clare is exempted development having regard to Section 4(1)(f) of the Planning and Development Act, 2000 (as amended), as the works cost less than €126,000, and were carried out "on behalf of, or jointly or in partnership with" Clare County Council.

Now therefore Clare County Council (Planning Authority) hereby decides that the retention of a wall mural on the south elevation of an existing end of terrace 2 storey building on the western side of Main Street, Ennistymon, County Clare is development and is exempted development.

Executive Planner

Date: 17th November 2025

Senior Executive Planner

Date: 18/4/25.

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	R25-87		
Applicant Name	McCarthy		
Development Location	Ennistymon		
Application accompanied by an EIS			
Application accompanied by an NIS	No		
Description of the project (To inclu	ide a site location map):		
	Wall mural		
	GI-015-102002- Water[mill - unclassified GI-015-102001 Water milk - unclassified		

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)
Inagh River Estuary SAC	Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	0.07

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.

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?	Yes
2	Impacts on terrestrial habitats and species.	Is the development within 1km of a European site with terrestrial based habitats or species?	Yes
3	Impacts on designated marine habitats and species.	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	No
4	Impacts on birds in SPAs	Is the development within 1km of a Special Protection Area	No
5	Indirect effects	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?	No impacts envisaged

Appropriate Assessment Screening Determination		
Planning File Reference	R25-87	
Proposed Development	Wall mural	
Development Location Ennistymon		
European sites within impact zone	As per report	
Description of the project		
As per report		
Qualifying Interests (QIs)/Special Conservatio	n 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).	
No impacts envisaged		
If there are potential negative impacts, explai	n whether you consider if these are likely to be	
significant, and if not, why not?		
No impacts envisaged – limited nature of work	s and distance from designations.	
Documentation reviewed for making this state	ement	
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		
(b) There is no potential for Yes		
significant effects to European		
Sites ³		
(c) The potential for significant		
effects to European Site(s)		

cannot be ruled out4

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

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.p

(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

Completed By John O'Sullivan

Date 17th November 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 Picture 06th November 2025





COMHAIRLE CLARE CONTAE AN CHLÁIR COUNTY COUNCIL

John Gabriel McCarthy Main St Ennistymon Co. Clare V95 D2F3

24/10/2025

Section 5 referral Reference R25-87 - John Gabriel McCarthy

Is the retention of a mural on the south-elevation on Main St, Ennistymon, Co. Clare, V95 D2F3 development and if so, is it exempted development?

A Chara,

I refer to your application received on 24th October 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

Mise, le meas

Brian Fahy

Clerical Officer

Planning, Placemaking & Economic Development

An Roinn Pleanála An Stiúrthóireacht Forbairt Gheilleagrach

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

Planning Department
Economic Development Directorate

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











CONTAE



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

24/10/2025 12:02:25

Receipt No.: L1CASH/0/386175
***** REPRINT *****

GABRIEL MCCARTHY
MAIN STREET
ENNISTYMON MHAIRLE
CO. CLARE

CONTAE

SECTION 5 REFERENCES A 1 80.00
GOODS A 80.00
VAT Exempt/Non-vatable

Total:

80:00 EUR

Tendered : BANK DRAFT

80:00

Change:

0.00

Issued By LICASH - DEIRDRE FRENCH From: MAIN CASH OFFICE LODGEMENT AF Vat reg No. 0038043E 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

2 4 OCT 2025

Received
Planning Section



K25-87

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	JOHN GABRIEL M'CANTY: Main ST. Ennistymon, Co Clare. V95D2F3		
(b) Telephone No.:	*		
(c) Email Address:			
(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?
Hotelication of charge of use and excepted
(b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought. The date of the question of the question which arises wherein a declaration of the question is sought.
Detation of Munul on the Soulla eleventer of Man ST Enristymon. V95 D2P3.
(a) List of along densiting to submit density
(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:	MAIN ST Ennistymon Co CCAME: V95-02F3		
(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?	10		
(c)	Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	- Burren		
(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: Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.			
(e)	Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	No-		
(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? <i>If so please supply details:</i>	Rel' 2024-018 2026 finished mid 25		
(h)	Date on which 'works' in question were completed/are likely to take place:	2026 finished mid 25		

SIGNED:

DATE: Hunsly 23m No

GUIDANCE NOTES

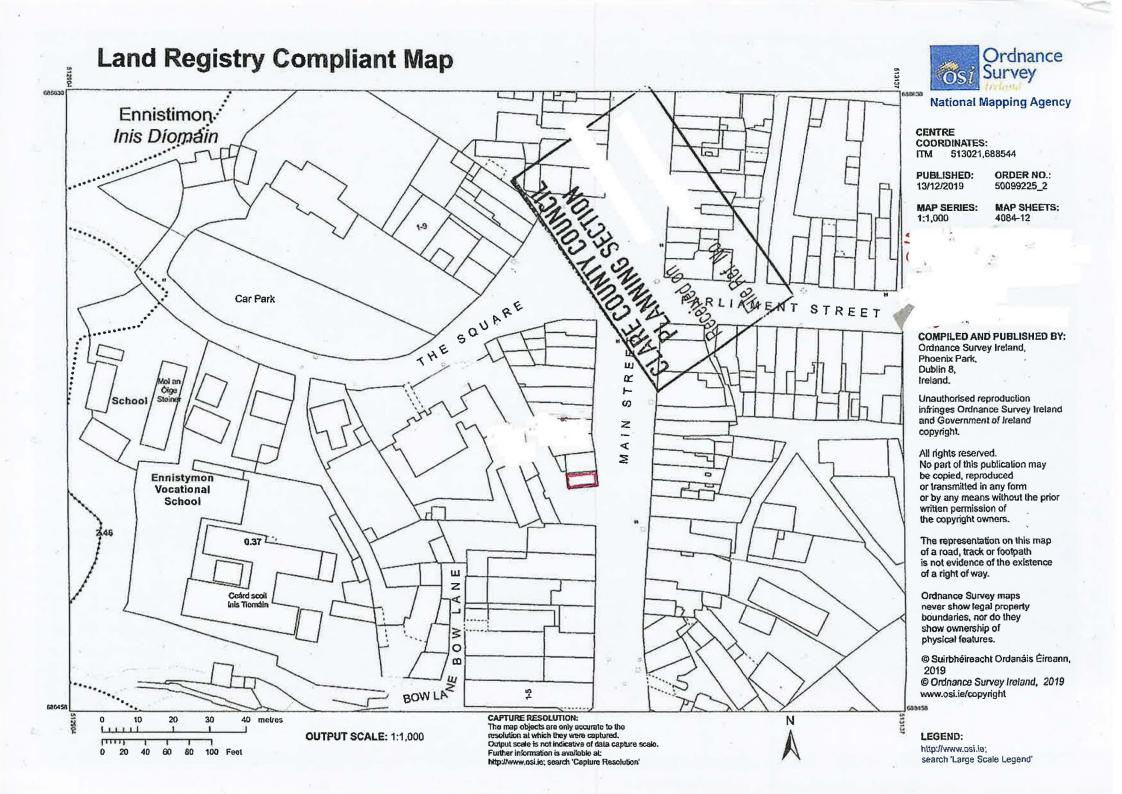
This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (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 Countil
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:	 	



rw: tnn

From Cal Date Mc

To Ais

Good aft

Just won

