



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Quinton Rice
C/o Brian Foudy & Associates Ltd
Osprey House
Carmody Street
Ennis
Co. Clare
V95 F720

RL5218 47665IE

7th November 2024

Section 5 referral Reference R24-80 – Quinton Rice

Is the construction of an agricultural shed and access roadway at Stone Park, Ballyallia, Ennis, Co. Clare development and if so, is it exempted development?

A Chara,

I refer to your application received on 14th October 2024 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 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



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

Reference No.: R24-80



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R24-80

Is the construction of an agricultural shed and access roadway at Stone Park, Ballyallia, Ennis, Co. Clare development and if so, is it exempted development?

AND WHEREAS, Quinton Rice 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 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended; and
- (d) The works as indicated in submitted documents from the referrer.

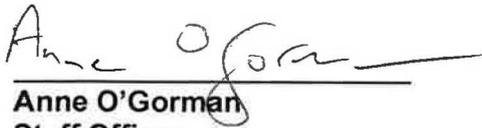
And whereas Clare County Council has concluded:

- (a) The construction of an agricultural shed development at Stone Park, Ballyallia, Ennis, Co. 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) Based on the details as submitted with the referral to date, the Planning Authority are not satisfied that the proposed development is linked to any agricultural activity and therefore could not be considered within the scope of Class 9, Parts 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) In the event that the development would fall within the scope of Class 9, Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, same would not comply with condition and limitation no. 5, by reason of its proximity within 100 metres of any house and where the consent of the owner, occupier or person in charge thereof has not been provided,
- (e) The Planning Authority does not consider the proposed road falls within this Class 13, Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended).

(f) There are no other exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations 2001, as amended, by which the construction of the shed and access road would constitute exempted development.

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 an agricultural shed and agricultural access roadway development at Stone Park, Ballyallia, Ennis, 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

7th November 2024

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: 84437

Reference Number: R24-80

Date Referral Received: 14th October 2024

Name of Applicant: Quinton Rice

Location of works in question: Stone Park, Ballyallia, Ennis, Co. Clare

Section 5 referral Reference R24-80 – Quinton Rice

Is the construction of an agricultural shed and access roadway at Stone Park, Ballyallia, Ennis, Co. Clare 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 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended; and
- (d) The works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of an agricultural shed development at Stone Park, Ballyallia, Ennis, Co. 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) Based on the details as submitted with the referral to date, the Planning Authority are not satisfied that the proposed development is linked to any agricultural activity and therefore could not be considered within the scope of Class 9, Parts 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) In the event that the development would fall within the scope of Class 9, Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, same would not comply with condition and limitation no. 5, by reason of its proximity within 100 metres of any house and where the consent of the owner, occupier or person in charge thereof has not been provided,

- (e) The Planning Authority does not consider the proposed road falls within this Class 13, Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended).
- (f) There are no other exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations 2001, as amended, by which the construction of the shed and access road would constitute exempted development.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, 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 an agricultural shed and agricultural access roadway development at Stone Park, Ballyallia, Ennis, Co. Clare is **considered development** which is **not exempted development**.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER *As*

Date:

7th November 2024

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: R24-80
APPLICANT(S): Quinton Rice, C/O Brian Foudy & Associates Ltd, Osprey House, Carmody St. Ennis
REFERENCE: Is the construction of an agricultural shed and access roadway at Stone Park, Ballyallia, Ennis, Co. Clare development, and if so, is it exempted development?
LOCATION: Stone Park, Ballyallia, Ennis, Co Clare
DUE DATE: 8th November 2024

Site Location

The subject site is located in Stone Park, Parklands, Ballyallia to the north of Ennis town. It is located on lands which are partially zoned 'Existing Residential' in the Clare County Development Plan 2023-2029 at the front of the site bounding the roadside, and largely unzoned to the rear of the site. The site comprises a vacant greenfield site, which is accessed between two no. existing residential properties via the L-4146 Local Primary Road which serves the Parklands residential area. The area largely comprises residential development and undeveloped lands.

The site is within an area of Extreme groundwater vulnerability, the Ennis Drumlin Farmland Landscape Character Area, partially within the settlement boundary of Ennis, partially within a Rural Area Under Strong Urban Pressure and the Western Corridor Working Landscape.

It is not located in or near any Architectural Conservation Area, any Protected Structures or Recorded Monuments. It is not located within any European Site designations; however, the site is located approximately 690m north-east of Ballyallia Lough SPA and Ballyallia Lake SAC.

From a site inspection conducted on 05/11/2024, I note that this subject site comprises a vacant greenfield which has an undulating topography. The lands were vacant and not in use for any agricultural purposes, with no openable access through to the lands and no existing agricultural or farmyard buildings or structures on site, which further suggest no agricultural activity is taking place on the lands.



Figure 1: Site Inspection Photos – Captured 05/11/2024

Recent Planning History

On-site:

None.

Immediately west:

- **23/60168** – Noel & Siobhan Kennedy – to demolish existing outbuildings and construct a new dwelling house, new entrance, access road, private garage and install a new wastewater treatment system along with all associated works. **Granted Permission.**

Background to Referral

This referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Brian Foudy & Associates C/O Quinton Rice.

The applicant is seeking a Section 5 Declaration as to whether the construction of an agricultural shed and access roadway at Stone Park, Ballyallia, Ennis, Co. Clare is development, and if so, is it exempted development.

The applicant has stated that the works comprise the construction of (a) a new 3m wide gravel roadway through the site and (b) a new agricultural shed, along with all associated site development works and connections to existing services. The applicant has provided a site location map, site layout plan and building elevations. The application form notes that the applicant of this Section 5 Declaration is not the landowner, and states that NS Construction Development Ltd. Are the owners of the lands in question and notes that the works are anticipated to take place in November 2024.

The length of the proposed gravel roadway has not been provided. The area of the proposed shed is provided as 87.6sqm, with a height of 4.526m to ridge.

No evidence has been provided by the referrer to suggest the use of the shed, nor has any evidence been provided to suggest this land is a farm.

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.2 of the Act includes a definition of 'agriculture' which "*includes, 'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of the land as grazing lands, meadow land, osier land, market gardens and nursery grounds and agricultural shall be constructed accordingly"*

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.

S.4.—(1) The following shall be exempted developments for the purposes of this Act—

(a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used.

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 13

The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.

Conditions and Limitations:

The width of any such private footpath or paving shall not exceed 3 metres.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 6

Agricultural Structures

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

Conditions and Limitations:

1. No such structure shall be used for any purpose other than the purpose of agriculture.
2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
5. No such structure within 100 metres of any public road shall exceed 8 metres in height.
6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

Schedule 2, Part 3, Class 7

Works consisting of the provision of a roofed structure for the housing of pigs, mink or poultry, having a gross floor space not exceeding 75 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

Conditions and Limitations:

1. No such structure shall be used for any purpose other than the purpose of agriculture.
2. The gross floor space of such structure together with any other such structures (490 existing structure), and any ancillary provision for effluent storage, situated within the same farmyard complex or within 100 metres of that complex shall not exceed 100 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
5. No such structure within 100 metres of any public road shall exceed 8 metres in height.
6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.
8. Boundary fencing on any mink holding must be escape-proof for mink.

Schedule 2, Part 3, Class 9

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

Conditions and Limitations:

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.
2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.
3. No such structure shall be situated within 10 metres of any public road.
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure

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,

(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 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 applicants are seeking a Section 5 Declaration as to whether the construction of an agricultural shed and access roadway at Stone Park, Ballyallia, Ennis, Co. Clare is development, and if so, is it exempted development.

Planning and Development Act, 2000 (as amended)

In accordance with Sections 2 and 3(1) of the Planning and Development Act 2000 (as amended) (hereafter referred to as 'the Act'), the items listed above do fall under the definition of 'works' and are, resultingly, characterised as 'development'.

Section 4 (1) (a) refers to the exempted development for buildings associated for the purposes of agricultural as being occupied together with land so used for agriculture or forestry. Following a site inspection, the proposed location of the shed did not appear to be connected with any agricultural activity on the site and the referrer did not include any information in relation to the agricultural activity taking place on the landholding. The definition of agriculture, as per the Act, refers to the activity on the lands and, in my opinion any such buildings permitted for agricultural are to be linked to an agricultural activity. It cannot be assumed that a shed within a rural area is intrinsically linked to agricultural activity as defined above in the Act. Having regard to the location of the building, on a site with no clear evidence of agricultural activity and the lack of any information to demonstrate agricultural activity, I am satisfied that the shed cannot be considered an agricultural structure.

Proposed Agricultural Shed:

Further to the above determination that the shed cannot be considered as an agricultural structure, Classes 6, 7, 8 and 9 of Class 9 of Schedule 2, Part 3 of the Regulations relate to exempted development for agricultural buildings/structures.

However, in the event that the referrer demonstrates that these lands are agricultural in nature, an assessment of Class 9 of Schedule 2, Part 3 of the Regulations are set out as follows:

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 9

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

I note that the proposed gross floorspace is 87.6sqm and that there are no other buildings on the subject site. Therefore, the proposed shed will not exceed 300sqm as per Class 9.

There are conditions and limitations attached to this exemption, which are assessed as follows:

- 1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*

There is no specification for the use of the proposed shed.

- 2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*

As determined by an inspection of the site, the subject lands do not comprise a farmyard complex.

3. *No such structure shall be situated within 10 metres of any public road.*

Not proposed to be located within 10 metres of any public road.

4. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*

The structure is proposed to be approximately 4.5m in height

5. *No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*

The location of the structure is noted to be approximately 7.7m from the site boundary, and approximately 40m -80m from a number of existing residential dwellings, and no letters of consent furnished to permit any sheds within 100m of each dwelling have been included. Therefore, the proposed shed does not meet this condition/limitation.

6. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

Painted metal sheeting is proposed.

Due to the location of the proposed agricultural shed not being located on a farmyard complex and being proposed to be located within 100m of existing residential development, it is not exempted within the provisions of Class 9 of the Planning and Development Regulations 2001 (as amended).

Proposed Roadway:

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 13

The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.

There is no existing roadway or formal path on this land, as confirmed on the site inspection carried out on 05/11/2024.

The proposed development relates to an entirely new roadway on private land and does not comprise the repair or improvement of any existing road, nor does it relate to a footpath. I note that it is proposed to use gravel to create the subject private roadway, however, I do not consider that this falls within the definition of paving and nor does the proposed roadway comprise wholly of a footpath.

Therefore, the proposed roadway is not exempted under Class 13 of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended).

There is a condition and limitation attached to this exemption, which is assessed as follows:

The width of any such private footpath or paving shall not exceed 3 metres.

The stated width of the proposed road is 3m.

Article 9 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*

The proposal does not contravene a condition of any previous permission.

- (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,*

The proposed access is stated to be via an existing access onto the public road. The width of the proposed road does not exceed 4m in width.

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

There is an existing agricultural access at this location, therefore no anticipated traffic hazard, obstruction or endangerment of public safety.

- (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 site comprises greenfield, partially unzoned and partially existing residential zoned, lands located partially within the Ennis settlement boundary and partially within the working landscape and rural area under strong urban pressure. The location of the proposed shed is within the unzoned working landscape and rural area under strong urban pressure and would not interfere with the character of the landscape, view or prospect of special amenity value or special interest preserved within the 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,*

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,*

Not applicable in this instance

- (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 licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

This is not applicable in this instance.

- 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,*

No likely significant effects on European Sites.

- 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,*

This is 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. There is an existing shed noted on the Site Layout Plan, however, I note the demolition of this shed was granted permission under a previously granted application for development on the neighbouring site (P23/60168).

- (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 questions have been referred to the Planning Authority:

Whether the construction of an agricultural shed and access roadway at Stone Park, Ballyallia, Ennis, Co. Clare 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) Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended; and

(d) The works as indicated in submitted documents from the referrer.

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

- (a) The construction of an agricultural shed development at Stone Park, Ballyallia, Ennis, Co. 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) Based on the details as submitted with the referral to date, the Planning Authority are not satisfied that the proposed development is linked to any agricultural activity and therefore could not be considered within the scope of Class 9, Parts 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) In the event that the development would fall within the scope of Class 9, Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, same would not comply with condition and limitation no. 5, by reason of its proximity within 100 metres of any house and where the consent of the owner, occupier or person in charge thereof has not been provided,
- (e) The Planning Authority does not consider the proposed road falls within this Class 13, Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended)
- (f) There are no other exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations 2001, as amended, by which the construction of the shed and access road would constitute exempted development.

Now therefore Clare County Council (Planning Authority), hereby decides that:

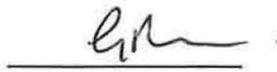
The construction of an agricultural shed and agricultural access roadway development at Stone Park, Ballyallia, Ennis, Co. Clare is development and is not exempted development.



Áine Bourke

Executive Planner

Date: 06/10/2024



Gareth Ruane

Senior Executive Planner

Date: 06/10/24



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Quinton Rice
C/o Brian Foudy & Associates Ltd
Osprey House
Carmody Street
Ennis
Co. Clare
V95 F720

14/10/2024

Section 5 referral Reference R24-80 – Quinton Rice

Is the construction of an agricultural shed and access roadway at Stone Park, Ballyallia, Ennis, Co. Clare development and if so, is it exempted development?

A Chara,

I refer to your application received on 14th October 2024 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

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



R24-80

**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	Quinton Rice, C/O Brian Foudy & Associates Ltd. <hr/> Ardcarney, Ospery House <hr/> Ruan, Carmody Street <hr/> Co. Clare Ennis, Co. Clare <hr/> V95 F720
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	Brian Foudy & Associates Ltd. <hr/> Osprey House, Carmody Street, <hr/> Ennis Co. Clare <hr/> V95 F720 <hr/>

2. DETAILS REGARDING DECLARATION BEING SOUGHT

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT
Note: only works listed and described under this section will be assessed.

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

Is the construction of a Agricultural Shed and access roadway at Stone Park, Ballyallia, Ennis,

Co. Clare an exempted development, under the Agricultural Exempted Developments?

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

To Construct (a) new 3.0m wide gravel roadway & (b) new Agricultural shed, together with all

associated site development works and connections to existing services.

(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

Site layout Plan

Plans, Section & Elevations

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Stone Park, <hr/> Ballallia, <hr/> Ennis, <hr/> Co. Clare. <hr/>
(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 <hr/> <hr/> <hr/>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	Owner <hr/> (Director of NS Construction Development Ltd.) <hr/>
(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>	NS Construction Development Ltd. <hr/> Ardcarney, Ruan, County Clare <hr/> <hr/>
(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>	No
(h) Date on which 'works' in question were completed/are likely to take place:	November 2024

SIGNED: _____

DATE: 15.10.2024 _____

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:		

535531E, 682069N



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 Site to which this
application refers
outlined in **RED**



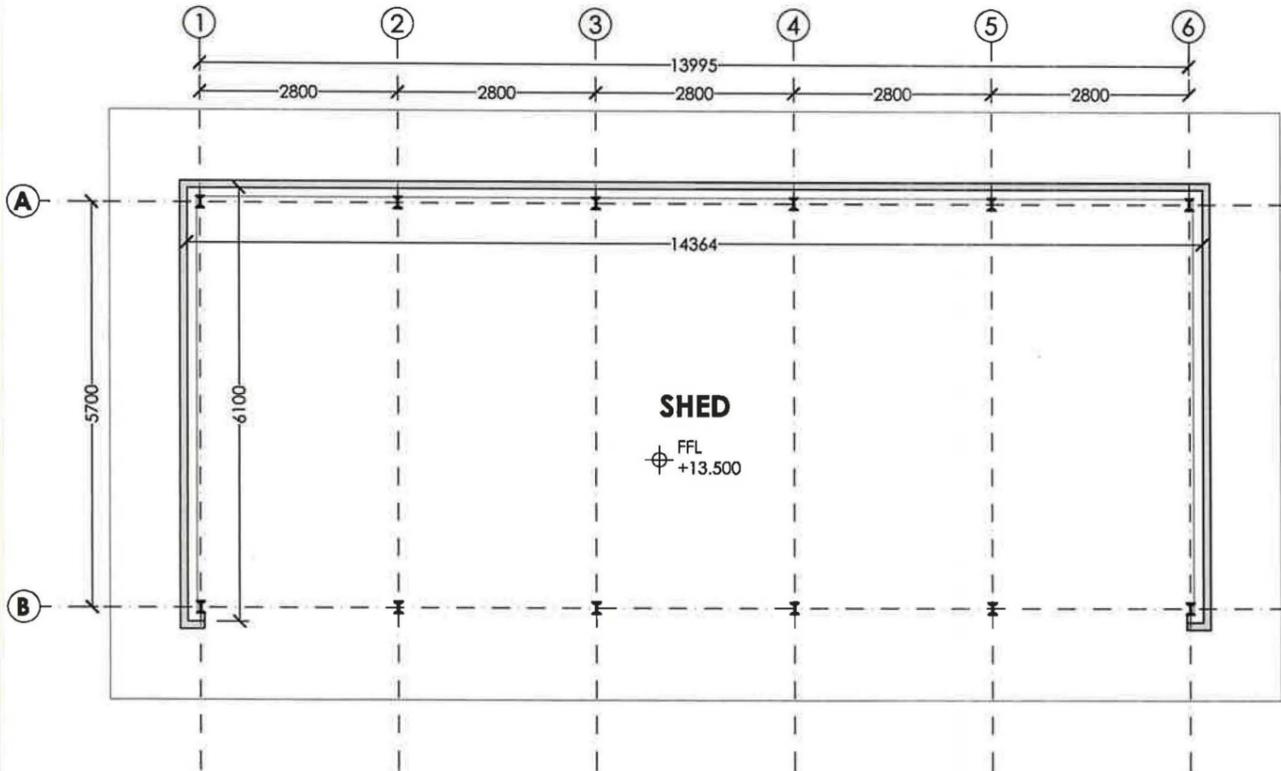
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Output Scale: 1:2,500

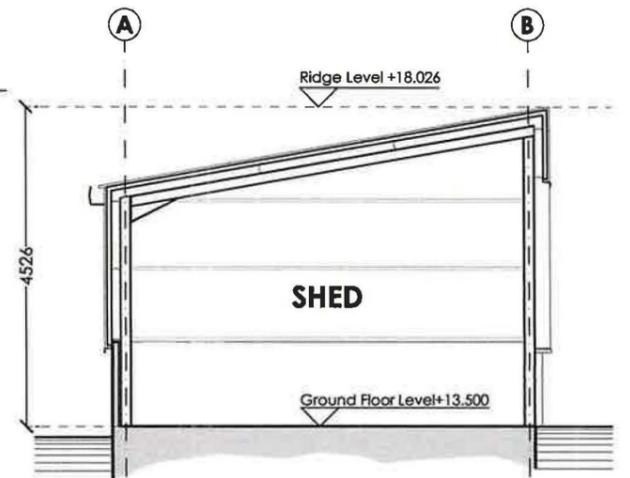
Date: Oct 2024



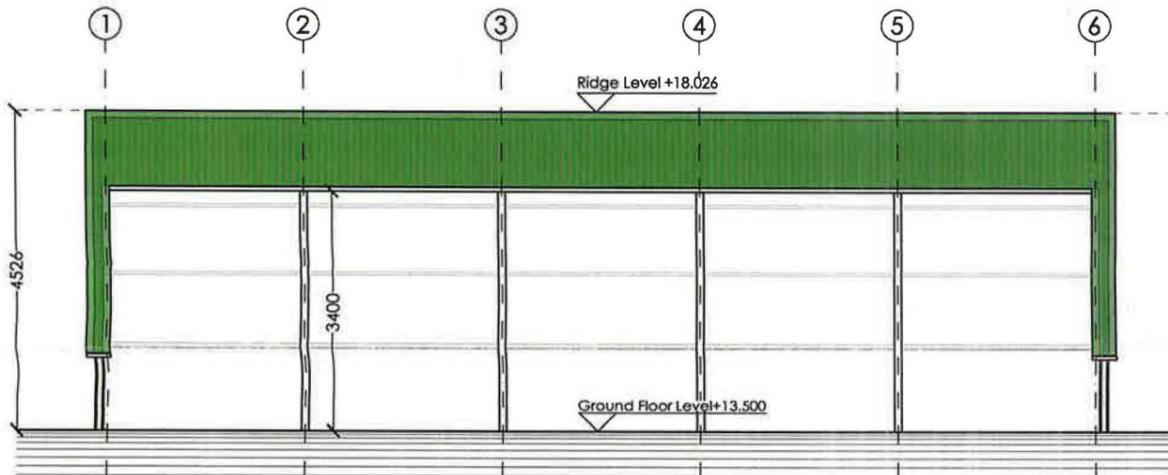
534949E, 681640N



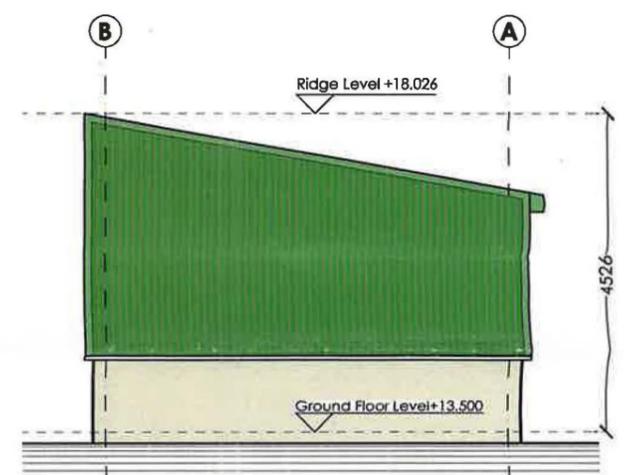
GROUND FLOOR PLAN
Scale 1:100



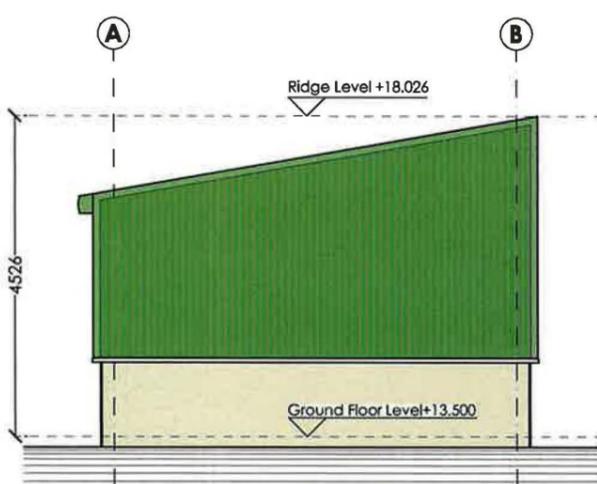
SECTION A-A
Scale 1:100



SOUTH ELEVATION
Scale 1:100



EAST ELEVATION
Scale 1:100



WEST ELEVATION
Scale 1:100



NORTH ELEVATION
Scale 1:100

PROPOSED FINISHES

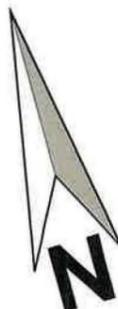
- Roof:**
- Profile metal to Selected Colour

- Gutters & Downpipes:**
- Aluminium to selected colour

- Fascia & Soffits:**
- Aluminium to selected colour
 - Flush gables & Eaves

- Walls:**
- Nap plaster finish to external walls painted to selected colour.
 - Profile metal to Selected Colour

- Windows & Doors:**
- Aluminium to selected colour.



Floor Areas		
	M ²	Sq Ft
Ground Floor	87.6	943
TOTAL	87.6	943



Brian Foudy
& Associates Limited

Chartered Engineers, Planning Consultants
& Property Surveyors

Osprey House, Carmody Street, Ennis, Co. Clare, V95 F720
Tel: 0656893565 e-mail: info@foudyconsulting.ie

Client: **QUINTON RICE**

Address: Ballalia, Ennis, Co. Clare

Title: **PLANS, SECTION & ELEVATIONS**

Drawn: M.D	Checked: B.F	Scale: 1:100 @ A3
Date: 02/24	Date: August 2023	
Proj: QR 03 02 24	Rev: --	

Note
This drawing is for **SECTION 5** purposes only and copyright protected by Brian Foudy & Associates Ltd.



SITE LAYOUT PLAN
Scale 1:500

- LEGEND**
- Area to which this application refers
13496.9 m² (3.335 Acres / 1.350 Hectares)
 - Existing adjoining dwellings/sheds
 - FFL +101.300 Floor/Ridge Levels
 - 70m Sight Distances



Brian Foudy
& Associates Limited

Chartered Engineers, Planning Consultants
& Property Surveyors

Osprey House, Carmody Street, Ennis, Co. Clare, V95 F720
Tel: 0656893565 e-mail: info@foudyconsulting.ie

Client:		QUINTON RICE	
Address:		Ballalia, Ennis, Co. Clare	
Title:		SITE LAYOUT PLAN	
Stage:	SECTION 5	Scale:	1:500 @ A1
Drawn:	M.D	Check:	B.F
Date:		Date:	October 2024
Dwg:	QR 03 01 24	Rev:	--