



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Miriam Hamilton
Benvoran
Cooraclare
Kilrush
Co. Clare
V15 E104**

13th May 2025

Section 5 referral Reference R25-27 – Miriam Hamilton

(1) Is the construction of an unroofed fenced horse exercise arena (25x45m) for exercising horses to provide an all-weather surface for private use under class 10 development and if so, is it exempted development? (2) Is an all-weather exercise track (unroofed) for winter turnout a class 10 development and if so, is it exempted development?

A Chara,

I refer to your application received on 3rd April 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



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

Reference No.: R25-27



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R25-27

(1) Is the construction of an unroofed fenced horse exercise arena (25x45m) for exercising horses to provide an all-weather surface for private use under class 10 development and if so, is it exempted development? (2) Is an all-weather exercise track (unroofed) for winter turnout a class 10 development and if so, is it exempted development?

AND WHEREAS, Miriam Hamilton 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 –

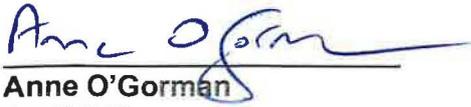
- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 10 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 03rd April 2025 and in the further information received on the 28th April 2025.

And whereas Clare County Council has concluded:

- (a) The development of the construction of (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, 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 (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is exempted development having regard to Class 10 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

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 (1) an unroofed fenced horse arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kiltrush, 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 Department
Economic Development Directorate

13th May 2025

CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No:

85465

Reference Number:

R25-27

Date Referral Received:

3rd April 2025

Date Further Information Received:

28th April 2025

Name of Applicant:

Miriam Hamilton

Location of works in question:

Benvoran, Cooraclare, Kilrush, Co. Clare

Section 5 referral Reference R25-27 – Miriam Hamilton

(1) Is the construction of an unroofed fenced horse exercise arena (25x45m) for exercising horses to provide an all-weather surface for private use under class 10 development and if so, is it exempted development? (2) Is an all-weather exercise track (unroofed) for winter turnout a class 10 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 10 of Part 3 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 03rd April 2025 and in the further information received on the 28th April 2025.

AND WHEREAS Clare County Council has concluded:

- (a) The development of the construction of (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, 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 (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is exempted development having regard to Class 10 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

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 her 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 construction of (1) an unroofed fenced horse arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, Co. Clare is **considered development** which is **exempted development**

Signed:



GARRETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

13th May 2025

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

FILE REF:	R25-27
APPLICANT(S):	Miriam Hamilton
REFERENCE:	Whether the construction of (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is not development and is or is not exempted development.
LOCATION:	Benvoran, Cooraclare, Kilrush, County Clare
DUE DATE:	16 th May 2025

Introduction

The following further information was requested on the 25th April 2025.

1. *With regard to the proposed exercise track, on the basis of the available information, the Planning Authority considers that the development of the all-weather horse exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is development and is not exempted development. However, with regard to the proposed horse exercise arena, there is the potential that this may constitute development that is exempted development. To proceed with this Section 5 referral application for said element of the overall proposal you are requested to submit the following:*

(a)

With regard to the proposed exercise arena to the front of the existing dwelling please note that on the basis of the available information it is unclear to the Planning Authority whether this would be located over an existing wastewater treatment system and polishing filter serving the dwelling. In addition, it is noted that there is a significant level change across the area of the proposed area and it is unclear as to the extent of the groundworks required to accommodate the proposal. Therefore, at present it is unclear as to whether this proposal would contravene a condition attached to a previous onsite planning permission (i.e. condition 1 of P15-404, and also whether the groundworks would interfere with the character of the receiving landscape. Therefore, you are requested to submit the following:

- i. A site layout plan which demonstrates the location of the proposed exercise arena relative to the existing onsite wastewater treatment system and polishing filter.*
- ii. A north to south cross section through the arena which demonstrates the existing and proposed ground levels in this area.*
- iii. Details of the materials and design of the drainage bed or soft surface material to provide an all-weather surface to the arena.*

The response was received on the 28th April. The determination is now due on the 15th May. Outlined in this report is a reassessment of the proposal in light of the responses received.

Site Location

The subject site with a stated area of 1.09 hectares is located to the north of a local road in the townland of Benvoran. The settlement of Drumdigus is approximately 2km south west of the site. The site currently accommodates a single-storey cottage with a two-storey extension together with sheds and outbuildings. The site is well screened with trees and hedgerow. The proposed exercise arena would be located to the front of the dwelling. The exercise track would be located in the 2 fields to the rear of the dwelling. The levels across the lands rise from south to north.

Recent Planning History

Onsite

90-454 – Granted - Mr Michael O'Halloran - permission to construct a septic tank.

10-84 – Refused - Robert & Karolina Mills - to RETAIN an extension to existing dwelling house along with associated works.

11-560 – Granted - Robert & Karoline Mills - for permission to RETAIN an extension to the existing dwelling house and planning permission to construct a private garage attached to main dwelling with all necessary ancillary services.

15-404 – Granted - Robert & Karolina Mills - to construct a garage along with all necessary ancillary works.

South East

06-2524 – Granted - Dermot Keogh - to construct a slatted shed with ancillary services.

Planning Enforcement History

UD09-136 – These enforcement proceedings related to non-compliance with condition 2 of P11-560. This condition pertained to the onsite wastewater treatment system and surface water drainage. The issue was subsequently resolved and the proceedings were closed on 15th October 2013.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Miriam Hamilton who is seeking a Section 5 Declaration as to whether the construction of (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an

all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is not development and is or is not exempted development.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

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

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

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

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 3 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 3 opposite the mention of that class in the said column 1.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 10

The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all weather surface.

- 1. No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*
- 2. No such area shall be used for the staging of public events.*
- 3. No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*
- 4. The height of any such structure shall not exceed 2 metres.*

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.

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

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.

Post Further Information Response Re-Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is not development and is or is not exempted development.

Particulars of Proposal

Exercise Arena

- Area 1125 square metres
- Maximum fence height 2 metres
- Distance from road > 10 metres
- Distance from 3rd party dwellings >100 metres

Exercise Track

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

- Track width 2 metres
- Distance from road > 10 metres
- Distance from 3rd party dwellings >100 metres
- Location Existing agricultural fields

Exercise Arena

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 10

The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.

It is stated that an all-weather surface is proposed. The arena would include a drainage bed of stone and would be covered in sand.

1. *No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*

It is proposed that the development is to be used for the training of horses.

2. *No such area shall be used for the staging of public events.*

It is stated that the proposal is for private use and not for the staging of public events.

3. *No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*

The location of the proposal exceeds these requirements.

4. *The height of any such structure shall not exceed 2 metres.*

It is stated that the maximum height of the fencing would be 2 metres.

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*

There is conflicting information on the site layout plans associated with the onsite planning applications P11-560 and P15-404 in terms of the location of the onsite wastewater treatment system and polishing filter. In the instance where the 2015 application was accurate, the proposed arena would have been located over the wastewater treatment system and polishing filter which would have been contrary to

condition number 1 of said permission. However, the applicant has confirmed in the further information response that the proposed arena would be to the immediate south of the existing septic tank and polishing filter and not over same. The location of the onsite system is confirmed from my examination of the planning enforcement file. Therefore, the proposal would not contravene a condition of the 2011 planning 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,*

Not applicable.

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

Site is served by an existing access point.

- (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.*

This exercise arena would be located on level ground on a lower area to the front of the dwelling. Very limited groundworks are required.

- (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 proposal site is located circa 4.1km from the Lower River Shannon SAC. 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.

Exercise Track

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 10

The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.

The further information response states that the track is to be fenced. This exemption therefore applies.

- 1. No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*

It is proposed that the development is to be used for the training of horses.

- 2. No such area shall be used for the staging of public events.*

It is stated that the proposal is for private use and not for the staging of public events.

- 3. No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*

The location of the proposal exceeds these requirements.

- 4. The height of any such structure shall not exceed 2 metres.*

The maximum height of the fencing is not stated. However, it would be very unlikely that same would exceed 2 metres in height.

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, 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 10 of Part 3 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 03rd April 2025 and in the further information received on the 28th April 2025.

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

- (a) the development of the construction of (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, 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 (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is exempted development having regard to Class 10 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority) hereby decides that the construction of (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare, is development and is exempted development.


Executive Planner
Date: 12th May 2025


Senior Executive Planner
Date: 12/05/25.

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	R25-27
Applicant Name	Hamilton
Development Location	Benvoran, Cooraclare, County Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
<p>Horse exercise area and track</p>	

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 (<i>Glauco-Puccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0] <i>Margaritifera margaritifera</i> (Freshwater Pearl	4.1

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)
	Mussel) [1029] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355]	

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 likely

Appropriate Assessment Screening Determination	
Planning File Reference	R25-27
Proposed Development	Horse exercise arena & track
Development Location	Benvoran Cooraclare
European sites within impact zone	As per report
Description of the project	
Horse exercise arena & track	
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	12 th May 2025

⁵ The proposed development must either be 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.

Miriam Hamilton

Berroran

Co. Clare

Kilrush

Co. Clare,
V15 R104

28/4/25.

REF: R25-27

RE - Proposed all
weather turusub arena

Dear Anne,

Thanks so much for your reply to our Section 5 application

In relation to 1(a), I can confirm that the proposed arena will not be located over either the waste water treatment system nor the clean water polishing filter. I enclose a site map and photographs of ① the percolation zone ② the polishing surface domain and ③ the separate field bounded by trees and hedge where the proposed arena would be positioned

The proposed arena in area 3 has no overlap or connection with zones ① & ②.

In relation to the levels, the proposed arena would be constructed in a flat field with no aspect, considered for that reason due to ease of development and access, as well as preservation of the existing landscape. The construction would require removal of 10 inches of topsoil, replaced with 4 inches of buckstone 2 inches of 2 inch stone and topped with 4 inches of sand.

* No change in level will ensue following development.

With regard to refusal of part ①, would you advise how we might meet exemption criteria. We had prior exemption for same in a previous Pt 2

Section 5 application, but the purchase of the property fell through. We are more than happy to comply with your advice on the track. The main purpose is animal welfare based. It would allow the horses a dry track to exercise on, where hay can be dispersed at points. This serves to facilitate their natural need to move and forage, whilst preserving the integrity of the soil and avoids severe poaching of the ground in wet weather.

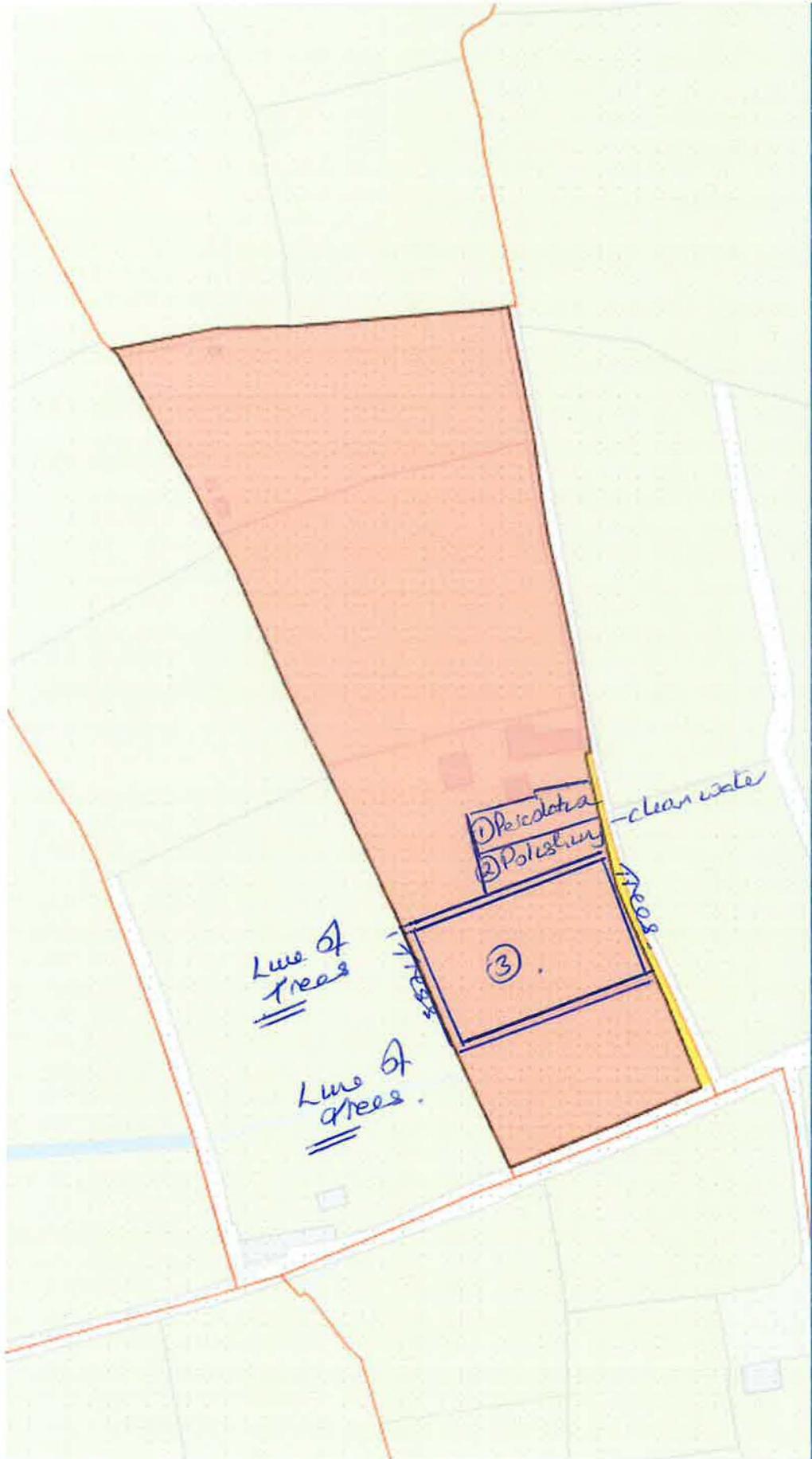
It would comprise of a sand or woodchip track ^{fence} around the perimeter of our fields of just 2 metres diameter, we felt this would protect the landscape from severe poaching, maintain the integrity of the grass and soil. As mentioned, we're happy to modify or adjust as required, if you might assist? / advise further?

We appreciate your correspondence, advice to date and are more than happy to provide any further information you may require

Kind regards + thanks

Wesley Hamilton

* If the position of the arena is still not satisfactory we can put it somewhere in the 4 acres out back if that's suitable? Thanks



area 2

PERCOLATION AREA (Gauge 1)

↑ POLISHING SURFACE (Gauge 2)



RESERVATION AREA
August 11
area ①



See Site Map for Overview of

- ① Resolation Area.
- ② Polishing Surface
- ③ All weather area

Proposed All weather turnout area

Stage 3

Polishing area ②
 and beyond
 the Perch
 zone ①

Resolation area fully fenced off and separate



40m approx

SOUTH NO CHANGE IN LEVEL

WEST

20m approx

EAST

NORTH

40m approx

20m approx



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Miriam Hamilton
Benvoran
Cooraclare
Kilrush
Co. Clare
V15 E104

25/04/2025

Section 5 referral Reference R25-27 – Miriam Hamilton

(1) Is the construction of an unroofed fenced horse exercise arena (25x45m) for exercising horses to provide an all-weather surface for private use under class 10 development and if so, is it exempted development? (2) Is an all-weather exercise track (unroofed) for winter turnout a class 10 development and if so, is it exempted development?

A Chara,

I refer to your application received on 3rd April 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

I wish to advise that in accordance with Section 5 (2) (b) of the Planning & Development Act, 2000, as amended, the following further information is required:

1. With regard to the proposed exercise track, on the basis of the available information, the Planning Authority considers that the development of the all-weather horse exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is development and is not exempted development. However, with regard to the proposed horse exercise arena, there is the potential that this may constitute development that is exempted development. To proceed with this Section 5 referral application for said element of the overall proposal you are requested to submit the following:

(a)

With regard to the proposed exercise arena to the front of the existing dwelling please note that on the basis of the available information it is unclear to the Planning Authority whether this would be located over an existing wastewater treatment system and polishing filter serving the dwelling. In addition, it is noted that there is a significant level change across the area of the proposed area and it is unclear as to the extent of the groundworks required to accommodate the proposal. Therefore, at present it is unclear as to whether this proposal would contravene a condition attached to a previous onsite planning permission (i.e. condition 1 of P15-404, and also whether the groundworks would interfere with the character of the receiving landscape. Therefore, you are requested to submit the following:

An Roinn Pleanála

An Stiúirthóireacht Forbairt Gheilleagrach

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

Planning Department

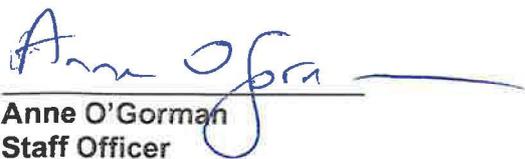
Economic Development Directorate

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



- i. A site layout plan which demonstrates the location of the proposed exercise arena relative to the existing onsite wastewater treatment system and polishing filter.
- ii. A north to south cross section through the arena which demonstrates the existing and proposed ground levels in this area.
- iii. Details of the materials and design of the drainage bed or soft surface material to provide an all-weather surface to the arena.

Mise, le meas



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

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

FILE REF:	R25-27
APPLICANT(S):	Miriam Hamilton
REFERENCE:	Whether the construction of (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is not development and is or is not exempted development.
LOCATION:	Benvoran, Cooraclare, Kilrush, County Clare
DUE DATE:	30 th April 2025

Site Location

The subject site with a stated area of 1.09 hectares is located to the north of a local road in the townland of Benvoran. The settlement of Drumdigus is approximately 2km south west of the site. The site currently accommodates a single-storey cottage with a two-storey extension together with sheds and outbuildings. The site is well screened with trees and hedgerow. The proposed exercise arena would be located to the front of the dwelling. The exercise track would be located in the 2 fields to the rear of the dwelling. The levels across the lands rise from south to north.

Recent Planning History

Onsite

90-454 – Granted - Mr Michael O'Halloran - permission to construct a septic tank.

10-84 – Refused - Robert & Karolina Mills - to RETAIN an extension to existing dwelling house along with associated works.

11-560 – Granted - Robert & Karoline Mills - for permission to RETAIN an extension to the existing dwelling house and planning permission to construct a private garage attached to main dwelling with all necessary ancillary services.

15-404 – Granted - Robert & Karolina Mills - to construct a garage along with all necessary ancillary works.

South East

06-2524 – Granted - Dermot Keogh - to construct a slatted shed with ancillary services.

Planning Enforcement History

UD09-136 – These enforcement proceedings related to non-compliance with condition 2 of P11-560. This condition pertained to the onsite wastewater treatment system and surface water drainage. The issue was subsequently resolved and the proceedings were closed on 15th October 2013.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Miriam Hamilton who is seeking a Section 5 Declaration as to whether the construction of (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is not development and is or is not exempted development.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

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

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

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

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 3 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 3 opposite the mention of that class in the said column 1.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 10

The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all weather surface.

- 1. No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*
- 2. No such area shall be used for the staging of public events.*
- 3. No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*
- 4. The height of any such structure shall not exceed 2 metres.*

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.

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

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 (1) of an unroofed fenced horse exercise arena (25m x 45m) for exercising horses to provide an all-weather surface for private use, and (2) an all-weather exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is not development and is or is not exempted development.

Particulars of Proposal

Exercise Arena

- Area 1125 square metres
- Maximum fence height 2 metres
- Distance from road > 10 metres
- Distance from 3rd party dwellings >100 metres

Exercise Track

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

- Track width 2 metres
- Distance from road > 10 metres
- Distance from 3rd party dwellings >100 metres
- Location Existing agricultural fields

Exercise Arena

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 10

The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.

It is stated that an all-weather surface is proposed. The nature of the materials to be used is not outlined.

1. *No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*

It is proposed that the development is to be used for the training of horses.

2. *No such area shall be used for the staging of public events.*

It is stated that the proposal is for private use and not for the staging of public events.

3. *No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*

The location of the proposal exceeds these requirements.

4. *The height of any such structure shall not exceed 2 metres.*

It is stated that the maximum height of the fencing would be 2 metres.

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*

There is conflicting information on the site layout plans associated with the onsite planning applications P11-560 and P15-404 in terms of the location of the onsite wastewater treatment system and polishing filter. In the instance with the 2015 application is accurate, the proposed arena would be located over the wastewater treatment system and polishing filter which would be contrary to condition number 1 of said permission. Further information is required on this issue.

- (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,*

Site is served by an existing access point.

- (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.*

This exercise arena would be located on sloping ground to the front of the dwelling. It is unclear what extent of groundworks are proposed to accommodate the arena. Further information is required on this issue.

(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 proposal site is located circa 4.1km from the Lower River Shannon SAC. 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.

Exercise Track

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 10

The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.

The track is not to be fenced. This exemption does not apply.

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.

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

Whilst the width of the track would be less than 3 metres, the track would be located within existing agricultural fields and would not constitute the repair or improvement of an existing road or way. This exemption does not apply.

Recommendation

I recommend that the following FURTHER INFORMATION be requested by the Planning Authority:

1. With regard to the proposed exercise track, on the basis of the available information, the Planning Authority considers that the development of the all-weather horse exercise track (unroofed) for winter turnout at Benvoran, Cooraclare, Kilrush, County Clare is development and is not exempted development. However, with regard to the proposed horse exercise arena, there is the potential that this may constitute development that is exempted development. To proceed with this Section 5 referral application for said element of the overall proposal you are requested to submit the following:

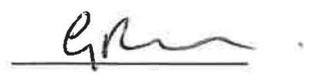
(a)

With regard to the proposed exercise arena to the front of the existing dwelling please note that on the basis of the available information it is unclear to the Planning Authority whether this would be located over an existing wastewater treatment system and polishing filter serving the dwelling. In addition, it is noted that there is a significant level change across the area of the proposed area and it is unclear as to the extent of the groundworks required to accommodate the proposal. Therefore, at present it is unclear as to whether this proposal would contravene a condition attached to a previous onsite planning permission (i.e. condition 1 of P15-404, and also whether the groundworks would interfere with the character of the receiving landscape. Therefore, you are requested to submit the following:

- i. A site layout plan which demonstrates the location of the proposed exercise arena relative to the existing onsite wastewater treatment system and polishing filter.
- ii. A north to south cross section through the arena which demonstrates the existing and proposed ground levels in this area.
- iii. Details of the materials and design of the drainage bed or soft surface material to provide an all-weather surface to the arena.



Executive Planner
Date: 24th April 2025



Senior Executive Planner
Date: 25/04/25

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	R25-27
Applicant Name	Hamilton
Development Location	Benvoran, Cooraclare, County Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
Horse exercise area and track	

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 (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0] <i>Margaritifera margaritifera</i> (Freshwater Pearl	4.1

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)
	Mussel) [1029] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355]	

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 likely

Appropriate Assessment Screening Determination	
Planning File Reference	R25-27
Proposed Development	Horse exercise arena & track
Development Location	Benvoran Cooraclare
European sites within impact zone	As per report
Description of the project	
Horse exercise arena & track	
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.

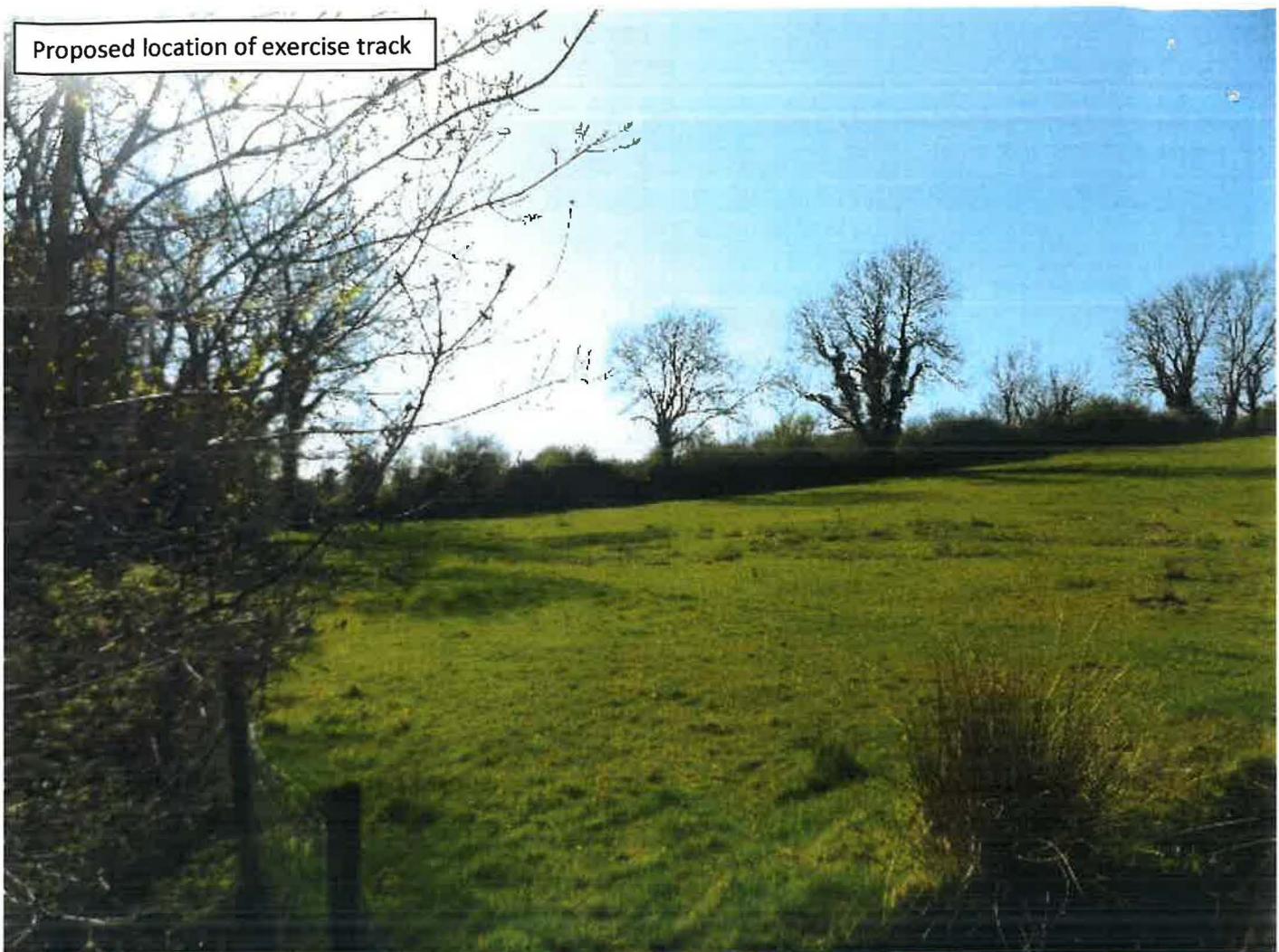
(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	No
Completed By	John O'Sullivan
Date	24 th April 2025

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.

Proposed location of arena



Proposed location of exercise track













COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Miriam Hamilton
6 Ballymulcashel
Kilmurry
Sixmilebridge
Co. Clare
V95 YX72

04/04/2025

Section 5 referral Reference R25-27 – Miriam Hamilton

(1) Is the construction of an unroofed fenced horse exercise arena (25x45m) for exercising horses to provide an all-weather surface for private use under class 10 development and if so, is it exempted development? (2) Is an all-weather exercise track (unroofed) for winter turnout a class 10 development and if so, is it exempted development?

A Chara,

I refer to your application received on 3rd April 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



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



03/04/2025 12:01:17

Receipt No. : L1CASH/0/377317
***** REPRINT *****

MIRIAM HAMILTON
6 BALLYMULCASHEL
KILMURRY, SIXMILEBRIDGE,
CO CLARE

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

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change : 0.00

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

P07

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

CLARE COUNTY COUNCIL
03 APR 2025
Received
Planning Section



Comhairle Contae an Chláir
Clare County Council

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

Telephone No. (065) 682 666
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie

R25-27

**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	MIRIAM HAMILTON 6 BALLYMULCASHEL Kilmurry Sixmilebridge Co Clare V95 Yx72
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	NIA

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?

1. Is the construction of an unroofed fenced horse exercise arena (25x45m) for exercising horses to provide an all weather surface for PRIVATE USE under class 10 development, and if so, is it exempted development?
2. Is an all weather exercise track (unroofed) for winter turnout a class 10 development and if so, is it exempted development (private use)

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

2 potential developments

① Horse exercise all weather surface (25x45) for private use only (see location on attached folio map)

- This would be a significant distance from any public road and on agricultural land.
- This would be unroofed and fenced no more than 2 metres high.
- No public events will be staged and the entrance will not be directly off a public road.

② Horse exercise track, a significant distance from any public road.

Unroofed and unfenced with a sand all weather surface to avoid poaching of land in winter but to facilitate exercise (track 2 metres wide)

- No public events will be staged + access will be well away from public road

(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)

Please see attached folio maps with outline of proposed development ① and ② (not to scale)

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	'Benvoran' Cooraclare Kilrush Co Clare. V15 E104
(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):	We're moving into this (2025) property on April 25 th , and have contracts exchanged.
(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>	Robert Mille Benvoran Cooraclare Kilrush Clare V15 E104
(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? If so please supply details:	of details Unsure ⁴²⁹ as purchasers, likely ⁴²⁹ as there is a private dwelling.
(h) Date on which 'works' in question were completed/are likely to take place:	June 2025.

SIGNED: William [Signature]

DATE: April 3rd 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:	



Property

> Back

Folio Number	CE48088F
Title Level	Freehold
Plan Number	BXH78
Property Number	1
Area of selected plans	2.71 hectares.
Number of Plans on this folio:	1
Address	Benvoran, Co. Cl. Kilrush, Co. Cl.

Add to Basket Create A

*Tailte Éireann Registration Boundary Area **are not conclusive**. See [Section 2 of the Land Registration Act 2006](#) and [Section 2 of the Land Registration Rules 2006](#).

View Basket

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Help