



Section 5 Declaration - Application Form

Declaration as to whether development constitutes Exempted Development

Please read "Guidance Notes" before completing this form

Guidance Notes

1. The purpose of Section 5 of the Planning and Development Act 2000, as amended, is to establish if a particular development is or is not development and if it is or is not exempted development within the meaning of the Planning Act.
 - (a) A person seeking a determination must ensure under Question 7 (of the application form below) that a question is posed and that the question is clear, for example, is the construction of a shed development and is it or is it not exempted development. Details are then required of the shed so the planning authority can determine if the shed is exempt.
 - (b) The question to be determined should be clear as to whether it relates to an existing development or a proposed development. Details of the nature, size and location of the proposed development should be submitted and appropriate plans and elevations.
 - (c) If the question is not clear to the Planning Authority, the Section 5 application will be returned as invalid.
2. Any person may, on payment of the prescribed fee, currently €80.00 request in writing from the Planning Authority a declaration on a question as whether a particular type of development is exempt.
3. The Planning Authority is required to make a decision within 4 weeks of receipt of a valid Declaration Request however the Planning Authority can also request Additional Information if it is considered that insufficient information has been submitted.
4. Any person issued with a declaration may, on payment to the Board of such fee as may be prescribed, currently €220.00 refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
5. A planning authority is required to consider whether the development or proposed development identified in the request would be likely to have significant effects on the environment by virtue, at the least, of the nature, size or location of such development.

Section 5 Declaration - Application Form

1. Name and address of person seeking the declaration:

JAMES FLOOD, KEEVERSTOWN, GRANGEBELLEW
Co. LOUTH, A92F742

Phone Number: [REDACTED]

E-Mail: [REDACTED]

2. Name and address of agent (if any):

ANDREW JOHNSTON, GRANGEBELLEW, DROGHEDA
Co. LOUTH

Phone Number: [REDACTED]

E-Mail: [REDACTED]

3. Name and address for all correspondence (if not completed, correspondence will be sent to person seeking declaration)

ANDREW JOHNSTON, GRANGEBELLEW, DROGHEDA,
Co. LOUTH

4. Interest in site of the person seeking declaration:

FREEHOLD TITLE HOLDER

(If applicant is not freehold owner of the property in question, please provide name and address of owner if known)

5. Location and full address of development referred to in Question 7

KEEVERSTOWN, GRANGEBELLEW,
Co. LOUTH

6. Eircode OR Grid Co-ordinates must be submitted. Grid references may be found on Google Maps or at

<https://irish.gridreferencefinder.com>

53.804397, -6.374195

7. Question for determination under Section 5 (See Note 1 above).

The question must be framed in the following format, i.e. Is the construction of a shed development and is it or is it not exempted development:

EXISTING & PROPOSED LAND RECLAMATION WORKS,
RIPPING & REMOVING OUTCROPS OF ROCK FROM LOCALISED
AREA & REPLACING WITH SOIL TO ALLOW THE FIELDS TO
BE FARMED MORE EFFECTIVELY. ROCK REMOVED WILL
REMAIN ON THE LANDHOLDING & NOT SOLD. NO CHANGE IN LEVEL WILL
BE GREATER THAN 1M.

8. Does the development consist of works to be carried out to an existing or proposed protected structure? Yes ☐ No ☒

If Yes, has a Declaration under Section 57 of the Planning and Development Act 2000 been requested or issued for the property by the Planning Authority?

I certify that the a

Signature of Appl

Date

03/06/26

Please include one copy of the following documents with this application form:

- Site Location Map: (Scale 1:1000)
- Site Layout Map: (Scale 1:200 or 1:500)
- Floor Plans & Elevations: (Scale 1:50, 1:100 or 1:200)
Existing & Proposed, where applicable
- Application fee: (€80)

Completed Application Form & Fee of €80.00 may be sent to:

Planning Office, Louth County Council, Town Hall, Crowe Street,
Dundalk, County Louth, A91W20C
OR

by email to planninggroup@louthcoco.ie with contact details to arrange payment of fee.























Louth County Council

Section 5 Declaration

Planning Ref:	S5 2026/42
Applicant's Name:	James Flood
Type of Application:	Section 5 Declaration
Question for Determination:	<i>Is the ripping and removing of outcrops of rock from localised area and replacing with soil – levels to be no greater than 1m – that has been carried out on the land and that proposed to be undertaken to allow the fields to be farmed more effectively with the removed rock to remain on the landholding and not be sold development, and is it, or is it not, exempted development.</i>
Site Location:	Keeverstown, Grangebellew, Co. Louth
Site Inspection	12 th June 2026
Due Date:	30/06/2026
Report Date:	25/06/2026

1.0 SITE LOCATION & DESCRIPTION:

The subject land is located within the rural area in the townland of Keeverstown, 2.5km southeast of Dunleer. The land identified in red submitted with the section 5 application extends to some 17.6 hectares. It contains undulating agricultural ground which initially rises steeply northwards from the L-6274-0 before falling and rising. Forestry extends to rear/north of the land and to the west. Dwellings located off long private lanes abut the site outlined in red. Stockpile of manure located on the southern field near road entry point and soil heaps within the northern section of the landholding (outlined in red).



Above: Looking towards the northern end of the land outlined in red



Above: looking towards the western end of the land (northwestern section)



Above: looking towards the northeastern section



Above: looking towards southern section and stockpile of manure.

2.0 Planning History

Most recent planning history includes: -

26/60056 James Flood (applicant) - *Planning permission to relocate the existing vehicular access by creating a new vehicular access onto the public road and to close the existing access on to the public road, together with all associated site development works at Keeverstown, Grange bellew, Co Louth – **FURTHER INFORMATION** requested and at the time of writing no response has been received.*

Section 5 2024/06 James Flood – Land reclamation works consisting of recontouring of land, including infilling of soil (but not waste) within a farm holding – Determined that it is **development that is not exempted development.**

In this case the applicant advised that the soil is to be imported to the subject site and therefore did not comply with the provision of Article 8C of the Planning and Development Regulations 2001 (as amended).

(a) the importation of soil for the purpose of infilling a low lying area of land constitutes 'works' and alteration of that land, and therefore 'development' as defined in section 2 and section 3, respectively, of the Planning and Development Act, 2000, as amended,

(b) the subject works do not relate to drainage or wetlands,

(c) the subject works provide for the importation of by-product from outside the farm-holding and therefore does not meet the limitations of article 8C of the Planning and Development regulations, 2001 as amended,

(d) it has not been established that the subject works would not give rise to a traffic hazard,

(d) therefore, the subject works are considered to constitute development that are not exempt development.

NOW THEREFORE Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the land reclamation works which consist of the recontouring of lands, including the infilling of soil (but not waste) is development which is not exempt development.

ENFORCEMENT HISTORY

UD/25/136 – Alleged unauthorised widening of gateway onto public road – **Case closed**

UD/25/283 – alleged unauthorised quarrying without the benefit of planning permission – **ONGOING – WARNING LETTER** issued.

3.0 QUESTION FOR DETERMINATION:

The applicant has confirmed within Question 7 of the application form that the question for determination relates to the following: -

Existing and proposed land reclamation works, ripping and removing outcrops of rock from localised area and replacing with soil to allow the fields to be farmed more effectively. Rock removed will remain on the landholding and not sold. No change in level will be greater than 1m.

Therefore, the Planning Authority is considering the question for determination as: -

Is the ripping and removing of outcrops of rock from localised area and replacing with soil – levels to be no greater than 1m – that has been carried out on the land and that proposed to be undertaken to allow the fields to be farmed more effectively with the removed rock to remain on the landholding and not be sold development, and is it, or is it not, exempted development.

The applicant has submitted a completed section 5 application form, a site location map identifying the area in red and images of some of the reclamation and the digging tool used.



Above: images submitted with application including digging tool.

4.0 EIA Screening and Determination

Council Directive 85/337/EEC (as amended) on the assessment of the effects of certain public and private projects on the environment ('the EIA Directive') is designed to ensure that projects likely to have significant effects on the environment are subject to a comprehensive assessment of their environmental effects prior to development consent being given. The latest amendments to the EIA Directive are provided under Directive 2014/52/EU and Circular letter PL 1/2017.

Having regard to Schedule 5, Part 2 – Development for the purposes of Part 10 of the Planning and Development Regulations 2001 (as amended),

1. Agriculture, Silviculture and Aquaculture: -

1(a) projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must comply with the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or where the area of lands to be restructured by removal of field boundaries is above 50 hectares.

Assessment

The total area of the red line submitted with the Section 5 Declaration which identifies the subject area and stated on this map for *the reclamation of land to isolated areas within red boundary via ripping rock and replacing with soil with removed rock to remain within the land holding and no rock to be sold and no tree removal is proposed apart from scrub/bush* extends to some 17.6 hectares.

Schedule 5, Part 2, 1 (a) identifies for the purposes of part 10 (Environmental Impact Assessment (EIA)) of the Planning and Development Regulations 2001 (as amended) where recontouring is above 5 hectares, **a mandatory EIA is required.**

1(c) of Schedule 5, Part 1 identifies that a mandatory EIA would be required for development consisting of the carrying out of drainage and/or reclamation of wetlands where more than 2 hectares of wetlands would be affected. The subject land does not involve wetlands. 1 (c) does not apply.

2. Extractive Industry

2(b) Extraction of stone, gravel, sand or clay, where the area of extraction would be greater than 5 hectares

Assessment

The total area of the land identified in red extends to some 17.6 hectares. The breaking and removal of stone/rock has already been carried out within this red line area, but it has not been demonstrated through the submitted details the extent of the area where stone extraction has occurred or the proposed area – if it includes the whole 17.6 hectares. It is noted that the site layout plan has indicated the reclamation will be focused in isolated areas of the overall site boundary however the extent of these works has not been provided. Having regard to the lack of detail the requirement for an EIA cannot be determined at this stage.

11. Other Projects

11(b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

Assessment

The section 5 question refers to the replacement of soil. It does not state if this soil is from elsewhere on the landholding or being imported. It is not possible to determine if the soil by-product is waste or not. The EPA Guidance of Soil and Stone By-products Version 3 June 2019, sets out guidance on understanding the by-product conditions and the tests to be met: -

Excess uncontaminated soil and stone resulting from excavation works (the primary aim of which is not the production of soil and stone) is a production residue and is regarded as a by-product only if all four by-product conditions are met:

- a) further use of the soil and stone is certain;*
- b) the soil and stone can be used directly without any further processing other than normal industrial practice;*
- c) the soil and stone is produced as an integral part of a production process; and*
- d) further use is lawful in that the soil and stone fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.*

The applicant has also failed to set out how much soil is required or the extent of the site area which is to be reclaimed. **Further information** is needed to determine if a mandatory EIA is required having regard to 11 (b) and therefore the requirement for an EIA cannot be excluded.

Having regard to the information provided and article 1 (a) and 2 (b) of Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended) for the purposes of part 10, and having considered the nature, size and location of the development, and the works that have already been carried out, the requirement for an EIA cannot be excluded.

Having regard to Section 4 (4) of the Planning and Development Act 2000 (as amended), where an EIA is required, this states that development shall not be exempted development: -

Notwithstanding *paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2)*, development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

5.0 Appropriate Assessment

The Section 5 declaration has not been accompanied by an Appropriate Assessment (AA) Screening Report.

European Site	Site Code	Distance to site	Qualifying Interests	Qualifying Objectives
Dundalk Bay SAC/pNHA	000455	C10km	Estuaries [1130] Mudflats and sandflats not	➤ To maintain the favourable conservation condition of

			covered by seawater at low tide [1140] Perennial vegetation of stony banks [1220] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	Estuaries in Dundalk Bay SAC ➤ To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide at Dundalk Bay SAC ➤ To maintain the favourable conservation condition of Perennial vegetation of stony banks in Dundalk Bay SAC ➤ To restore the favourable conservation condition of Salicornia and other annuals colonizing mud and sand in Dundalk Bay SAC ➤ To maintain the favourable conservation condition of Atlantic salt meadows ➤ To maintain the favourable conservation condition of Mediterranean salt meadows
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Dundalk Bay SPA/pNHA	004026	C11km	Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Greylag Goose (<i>Anser anser</i>) [A043] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Mallard (<i>Anas platyrhynchos</i>) [A053] Pintail (<i>Anas acuta</i>) [A054] Common Scoter (<i>Melanitta nigra</i>) [A065] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149]	➤ To maintain the favourable conservation conditions for Great Crested Grebe , Greylag Goose, Light-bellied Brent Goose, Shelduck, Teal, Mallard, Pintail, Common Scoter, Red-breasted Merganser, Oystercatcher, Ringed Plover, Golden Plover, Grey Plover, Lapwing, Knot, Dunlin, Blacktailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Black-headed Gull, Common Gull, Herring Gull, Wetland and Waterbirds
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			Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Herring Gull (<i>Larus argentatus</i>) [A184] Wetland and Waterbirds [A999]	
Stabannon & Braganstown SPA	IE0004091	c9.15km	Greylag Goose	➤ To maintain the favourable conservation condition in Stabannon & Braganstown SPA for Greylag Goose
Boyne Estuary SPA	IE0004080	C11km	➤ Shelduck ➤ Oystercatcher ➤ Golden Plover ➤ Grey Plover ➤ Lapwing ➤ Knot ➤ Sanderling ➤ Black-tailed Godwit ➤ Redshank ➤ Turnstone ➤ Little Tern ➤ Wetland and Waterbirds	➤ To maintain the favourable conservation condition in Boyne Estuary SPA for Shelduck, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Knot, Sanderling, Black-tailed Godwit, Redshank, Turnstone, Little Tern, Wetland and Waterbirds

Boyne Coast and Estuary SAC	IE0001957	C12km	➤ Estuaries ➤ Mudflats and sandflats not covered by seawater at low tide ➤ Annual vegetation of drift lines ➤ Salicornia and other annuals colonising mud and sand ➤ Atlantic salt meadows ➤ Embryonic shifting dunes ➤ Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) ➤ Fixed coastal dunes with herbaceous vegetation (grey dunes)	To maintain the favourable conservation condition of: ➤ Estuaries ➤ Mudflats and sandflats not covered by seawater at low tide ➤ Atlantic salt meadows To restore the favourable conservation condition of ➤ Salicornia and other annuals colonizing mud and sand ➤ Embryonic shifting dunes ➤ Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ('white dunes') ➤ Fixed coastal dunes with herbaceous vegetation ('grey dunes') Mediterranean salt meadows (conservation objective under review).
River Boyne and River Blackwater SAC	IE0002299	C10km	Annex1 ➤ Alkaline fens ➤ Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which

			Padion, Alnion incanae, Salicion albae) ➤ Annex 2 ➤ River Lamprey ➤ Salmon ➤ Otter	the SAC has been selected:
Clogherhead SAC	IE0001459	C9.5km	➤ Vegetated sea cliffs of the Atlantic and Baltic coasts ➤ European dry heaths	To maintain the favourable conservation condition of Vegetated sea cliffs of the Atlantic and Baltic coasts in Clogher Head SAC
River Boyne & River Blackwater SPA	IE0004232	C 9.5km	➤ Kingfisher (Alcedo atthis)	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

North-West Irish Sea SPA	004236	C9.5km	• Red-throated Diver • Great Northern Diver • Fulmar • Manx • Cormorant • Shag • Common Scoter • Little Gull • Black-headed Gull • Common Gull • Lesser Black-backed Gull • Herring Gull • Great Black-backed Gull • Kittiwake • Roseate Tern • Common Tern • Arctic Tern • Little Tern • Gulliemot • Razorbill • Puffin
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Having regard to the nature and scale of the development that has been carried on the land identified in red, in addition to that proposed, along with the lack of an Appropriate Screening Assessment and important information with the section 5 pack including details as to the rock breaking, extent, quantity of soil replacement, its origin, if it is a soil by-product or waste amongst other detail, it cannot be concluded that the development would not be likely to have a significant effect on the integrity of a European Site and the Planning Authority, in this case, would be precluded from screening the application and given that large areas of work have already been carried out, an application for substitute consent from An Coimisiún Pleanála would be necessary in this case.

6.0 LEGASLATIVE CONTEXT:

S.I. No. 662/2024 - The Planning and Development Act 2024 (Commencement) Order 2024

The Planning and Development Act 2024 (Commencement) Order 2024 states:

“The 2nd day of December 2024 is appointed as the day on which the following provisions of the Planning and Development Act 2024 (No. 34 of 2024) shall come into operation:

- (a) Sections 1 to 5;*
- (b) Part 26*

The Planning and Development Act 2024

Section 2 states:

“agriculture” includes

- (a) horticulture,*
- (b) fruit growing,*
- (c) seed growing,*
- (d) dairy farming,*
- (e) 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 the farming of land),*
- (f) the training of horses,*
- (g) the rearing of bloodstock, and*
- (h) the use of land –*
 - (i) as grazing land, meadow land or osier land*
 - (ii) for market gardening, or*
 - (iii) as nursery grounds;*

“development” means—

(a) the carrying out of works—

(i) on, in, over or under land, or

(ii) on, in, over or under the maritime area,

Or

(b) the making of a material change in the use of—

(i) land or any structure on land, or

(ii) the sea, seabed or any structure, in the maritime area,

and includes the reclamation of land in the nearshore area;

“exempted development” means—

(a) development of a class prescribed under section 9, or

(b) development that is exempted development by virtue of section 152 ;

“land-based development” means

(a) the carrying out of works on, in, over or under land, or

(b) the making of a material change in the use of land or any structure on land;

“structure” means—

(a) a building, edifice, construction, excavation, or other thing constructed or made on, in or under any land, or a maritime site, or any part thereof, or

(b) the land or maritime site on, in or under which such building, edifice, construction, excavation, other thing or part is situated;

“Works” includes an act or operation—

(a) of construction, excavation, demolition, extension, alteration, repair or renewal (including in relation to a protected structure, a proposed protected structure or a

structure situated in an architectural conservation area), on, in, over or under land or a maritime site,

(b) consisting of the application of plaster, paint, wallpaper, tiles or other material to the surface of a protected structure or proposed protected structure or the removal of plaster, paint, wallpaper, tiles or other material from such surface, and

(c) consisting of the application of plaster, paint, wallpaper, tiles or other material to the exterior of a structure situated in an architectural conservation area or the removal of plaster, paint, wallpaper, tiles or other material from such exterior.

The Planning and Development Act, 2000 (as amended)

As stated in Section 2(1) of the Planning & Development Act, 2000 (as amended), “**quarry**” means an excavation or system of excavations made for the purpose of, or in connection with, the getting of minerals (whether in their natural state or in solution or suspension) or products of minerals, being neither a mine nor merely a well or bore-hole or a well and bore-hole combined, and shall be deemed to include—

(i) any place on the surface surrounding or adjacent to the quarry occupied together with the quarry for the storage or removal of the minerals or for the purposes of a process ancillary to the getting of minerals, including the breaking, crushing, grinding, screening, washing or dressing of such minerals but, subject thereto, does not include any place at which any manufacturing process is carried on;

(ii) any place occupied by the owner of a quarry and used for depositing refuse from it but any place so used in connection with two or more quarries, and occupied by the owner of one of them, or by the owners of any two or more in common, shall be deemed to form part of such one of those quarries as the Minister may direct;

(iii) any line or siding (not being part of a railway) serving a quarry but, if serving two or more quarries shall be deemed to form part of such one of them as the Minister may direct;

(iv) a conveyor or aerial ropeway provided for the removal from a quarry of minerals or refuse.

Section 3

Development.

3.— In this Act, except where the context otherwise requires, “development” means—

(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

(b) development within the meaning of Part XXI

(2) For the purposes of *subsection (1)* and without prejudice to the generality of that subsection—

(a) where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or

(b) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

(ii) the storage of caravans or tents, or

(iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders' waste, rubbish or debris,

the use of the land shall be taken as having materially changed.

(3) For the avoidance of doubt, it is hereby declared that, for the purposes of this section, the use as two or more dwellings of any house previously used as a single dwelling involves a material change in the use of the structure and of each part thereof which is so used.

Section 4:

Section 4(1) provides a list of statutory exempted development.

Section 4(2) further provides for the making of regulations by the Minister relating to exempted development. The Planning & Development Regulations (PDR) 2001 (as amended) give effect to Section 4(2).

Section 4(4) refers to development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Section 4(4a) provides for the making of regulations by the Minister exempting development in relation 4(4).

Exempted Development

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;

(l) development consisting of the carrying out of any of the works referred to in the [Land Reclamation Act, 1949](#), not being works comprised in the fencing or enclosure of land which has been open to or used by the public within the ten years preceding the date on which the works are commenced F54[or works consisting of land reclamation or reclamation of estuarine marsh land and of callows, referred to in section 2 of that Act

“works” definition in the Land Reclamation Act 1949

“works” refers to the following or any of them:—

- (a) field drainage;*
- (b) land reclamation;*
- (c) the construction and improvement of watercourses;*
- (d) the removal of unnecessary fences;*

- (e) the construction of new fences and the improvement of existing ones;*
- (f) improvement of hill grazing;*
- (g) reclamation of estuarine marsh land and of callows;*
- (h) any operations ancillary to the foregoing.*

Section 5 states:

- (1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.
- (2) (a) Subject to *paragraph (b)*, a planning authority shall issue the declaration on the question that has arisen and the main reasons and considerations on which its decision is based to the person who made the request under *subsection (1)*, and, where appropriate, the owner and occupier of the land in question, within 4 weeks of the receipt of the request.

(b) A planning authority may require any person who made a request under *subsection (1)* to submit further information with regard to the request in order to enable the authority to issue the declaration on the question and, where further information is received under this paragraph, the planning authority shall issue the declaration within 3 weeks of the date of the receipt of the further information.

(c) A planning authority may also request persons in addition to those referred to in *paragraph (b)* to submit information in order to enable the authority to issue the declaration on the question.

Section 32:

Section 32 sets out a general obligation to obtain planning permission in respect of any development of land, not being exempted development, and in the case of development, which is unauthorised, for the retention of that unauthorised development.

Planning and Development Regulations 2001, (as amended)

Article 6 (1) 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.

Restrictions on Exemption: Article 9

Article 9(1) 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 comprise 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,

(vi) 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 (now Coimisiún) 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.

Article 9 (1) (c)

If it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act of these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,

Class 11 of Part 3, Schedule 2 of the Planning and Development Regulations 2001 (as amended)

Class 11: - Development consisting of the carrying out of drainage and/or reclamation of wetlands.

Condition/Limitation: -

1. The area to be affected shall not exceed 0.1 hectares
2. Where development has been carried out within a farm holding under this class, the total area of any such development taken together with the area of any previous such development within the farm holding shall not exceed the limits set out in 1. Above.

Article 8 of the Planning and Development Regulations 2001 (as amended) – Works specified in a drainage scheme

8 (c) Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land including infilling of soil (but no waste material) within a farm holding, shall be exempted development.

Article 5 of The Planning and Development Regulations 2001 (as amended) defines Wetlands as:

‘Wetlands means natural or artificial areas where biogeochemical functions depend notably on constant or periodic shallow inundation, or saturation, by standing or flowing fresh, brackish or saline water.’

Louth County Development Plan 2021-2027, as varied chapter 8, section 8.9 refers to wetlands and the Louth Wetland Survey which determined the wetland status of more than 300 sites.

7.0 ASSESSMENT

Do the works constitute “development”?

Having regard to the definitions set out in section 2 of the Planning and Development Act 2024, it is considered that the

(i) ripping and removing of outcrops of rock from localised area (which includes breaking and extraction of rock that has already been carried and proposed to be carried out), and

(ii) the replacing with soil – levels to be no greater than 1m (that has been carried out on the land and that proposed to be undertaken)

constitutes “works” as per section 2 and therefore constitutes “development” as defined in the Act.

Do the works constitute exempted development?

Class 11 of the planning and Development Regulations 2001 (as amended) provides an exemption for development consisting of the carrying out of drainage and/or reclamation of wetlands with the following conditions/Limitations: -

1. The area to be affected shall not exceed 0.1 hectares
2. Where development has been carried out within a farm holding under this class, the total area of any such development taken together with the area of any previous such development within the farm holding shall not exceed the limits set out in 1. Above.

Having regard to the site characteristics, the wetland survey Ireland mapping system and the Louth County Development Plan 2021-2027 as varied, the site does not contain a wetland. Class 11 is therefore not applicable.

Article 8 (c) of the Planning and Development Regulations 2001 (as amended) provides exemption for *land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land including infilling of soil (but no waste material) within a farm holding, shall be exempted development.*

No detail as to origin and quantity of the soil i.e. is it from the landholding or imported has been provided. No section drawings have been provided of existing and proposed ground levels although the question for determination refers to levels no greater than 1m.

Article 9

Having regard Article 9 of the Planning and Development Regulations 2001 (as amended), it is considered that the proposal does not meet all the criteria set out and conflicts with: -

- Article 9 (1) (viiB) of the Planning and Development Regulations 2001, as amended, (the Regs) in that the Planning Authority, is unable to screen the proposal for Appropriate Assessment due to the development that has already occurred and the lack of information pertaining to the overall processes involved.

Quarrying

Having regard to the definition of 'quarry' as per section 2 of the Planning and Development Act 2000 (as amended), the breaking and extraction of rock on the landholding to facilitate the recontouring of the land (and not for commercial purposes as stated on the section 5 question for determination) it is considered would constitute quarrying (appeal decision ABP-322529-25 and section 5 declaration RL-15.RL3465 are relevant to this case as they involve quarrying and land reclamation). Section 4(1) of the Act sets out provisions in relation to exempted development. The breaking/extraction of rock on the site for the purpose of recontouring the lands would not comply with any of these provisions. Section 4(2) of the Act however provides that the Regulations can make provision in respect of exempted development.

Conclusion

- The development involves the extraction and breaking of stone that would fall within the definition of 'quarry' as defined in Section 2 of the Planning and Development Act 2000, as amended (the Act), and having regard to Section 4 (1) of the Act, there are no exemptions for the breaking/extraction of rock for the purpose of recontouring the lands.
- Article 8(c) does not apply as the process of land reclamation involves 'quarrying' for which no exemption provisions apply (section 4 (1) of the Act).
- The subject land for which development has already commenced and proposed for the purposes of land reclamation exceeds the mandatory 5 hectares as set out in Schedule 5, Part 2 – Development for the purposes of Part 10 of the Planning and Development Regulations 2001 (as amended) (the Regs), **1 (a) – Agriculture, Silviculture and Aquaculture**, and **2 (b) Extractive Industry** and based on the information submitted. Having regard to the limited information pertaining to the amount of replacement soil and the scale of the land involved in the reclamation, the need for an EIA cannot be excluded under **11 (b) Other Projects**.

- Therefore, having regard to Section 4 (4) of the Act, where an EIA is required, this states that the development shall not be exempted development.
- Having regard to Article 9 (1) (ViiB) and Article 9 (1) (c) of the Regs, the development shall not be exempted development.

8.0 Recommendation

Having regard to the foregoing and the information received with the application pack received as valid on 10th June 2026 it is considered that *the ripping and removing of outcrops of rock from localised area and replacing with soil – levels to be no greater than 1m – that has been carried out on the land and that proposed to be undertaken, to allow the fields to be farmed more effectively with the removed rock to remain on the landholding and not be sold* constitutes development within the meaning of section 2 of the Planning and Development Act 2024 (as amended) and ‘quarry’ within the meaning of section 2 of the Planning and Development Act 2000 (as amended) and does not fall within any class of exempted development as set out in Section 4(1) of the Planning and Development Act 2000, as amended, conflicts with Section 4 (4) of the Planning and Development Act 2000 (as amended) and, taking account of the lack of detail included with the application, may conflict with Article 9 (1) ViiB and Article 9 (1) (c) of the Planning and Development Regulations 2001, as amended, and therefore constitutes **development** that is **not exempted development**.

Accordingly, it is recommended that an order along the following lines is issued:-

WHEREAS a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to whether *the ripping and removing of outcrops of rock from localised area and replacing with soil – levels to be no greater than 1m – that has been carried out on the land and that proposed to be undertaken, to allow the fields to be farmed more effectively with the removed rock to remain on the landholding and not be sold* at Keeverstown, Grangebellew, Co. Louth is or is not development and is or is not exempted development

AND WHEREAS the said question was referred to Louth County Council by James Flood,

AND WHEREAS Louth County Council in considering this application, had regard reference particularly to:

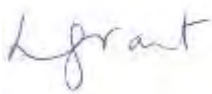
- (a) The definition of “development”, in **Section 2 of the Planning and Development Act 2024** (as amended) and Section 2 of the Planning and Development Act 2000 (as amended) in reference to ‘quarry’
- (b) **Section 3 of the Planning and Development Act 2000 (as amended)**
- (c) **Section 4(1) and 4(4) of the Planning and Development Act 2000 (as amended)**
- (d) Specifically, the provisions under **Class 11 of Part 3, Schedule 2 of the Planning and Development Regulations 2001 (as amended)**,
- (e) **Articles 5, 6, 8(c) and 9 of the Planning and Development Regulations 2001 (as amended)**
- (f) **Schedule 5, Part 2 1(a), 2(b) and 11(b) of the Planning and Development Regulations 2001 (as amended) for the purposes of Part 10**
- (g) Planning Appeal ABP-322529-25 and Section 5 Declaration RL15.RI3465
- (h) Planning history of the site
- (i) Plans and particulars forwarded to the Planning Authority

AND WHEREAS Louth County Council has concluded that on the basis of the information submitted that:

- (a) The ripping and removing of outcrops of rock which involves the breaking and extraction of rock from the land and replacing and infilling with soil with levels no greater than 1m for the purposes of land reclamation and recontouring constitutes ‘works’ that come within the scope of section 2(1) of the Planning and Development Act 2024 (as amended) and ‘quarry’ under the Planning and Development Act 2000 (as amended)
- (b) The said works constitute development that comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended
- (c) The said works do come within the scope of the restrictions on exemptions set out at
 - Article 9 (1) (ViiB) of the Planning and Development Regulations 2001 (as amended) whereby the works comprise development in relation to which a Planning Authority or An Coimisiún Pleanála is the competent authority in relation to appropriate assessment because, due to the lack of detail included with the application it cannot be determined if the development would be likely to have a significant effect on the integrity of a European Site; and
 - Article 9 (1) (c) of the said Regulations, whereby, due to the lack of detail included with the application it cannot be determined that the requirement for an Environmental Impact Assessment can be excluded.
- (d) Due to the lack of detail with the application, the said works may come within the scope of the restrictions on exemptions set out under Section 4 (4) of the Planning and Development Act 2000 as amended, insofar as it is

considered that the need for Appropriate Assessment (substitute consent) and Environment Impact Assessment cannot be excluded.

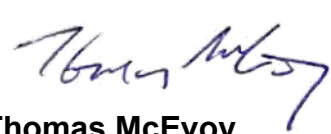
NOW THEREFORE Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that *the ripping and removing of outcrops of rock from localised area and replacing with soil – levels to be no greater than 1m – that has been carried out on the land and that proposed to be undertaken, to allow the fields to be farmed more effectively with the removed rock to remain on the landholding and not be sold at Keeverstown, Grangebellew, Co. Louth* is **development** that is **not exempted development**.



Lisa Grant
Assistant Planner
Date: 25/06/2026



Turlough King
A/Senior Planner
Date: 26/06/2026



Thomas McEvoy
Director of Services
Date: 29/06/2026

LOUTH COUNTY COUNCIL

CHIEF EXECUTIVE'S ORDER

PLANNING & DEVELOPMENT ACT 2000 (as amended)

Section 5 Exempted Development

Chief Executive's Order No:	490/2026
Reference No:	S5 2026/42
Date Application Received:	03/06/2026
Description of Development:	Exisitng & proposed reclamation works, ripping and removing outcrops of rock from localised area & replacing with soil to allow the fields to be farmed more effectively. Rock removed with remain on the landholding & not sold. No change in level will be greater than 1m.
Name of Applicant:	James Flood
Location of Development	Keeverstown, Grangebellew, Co. Louth

WHEREAS a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to whether *the ripping and removing of outcrops of rock from localised area and replacing with soil – levels to be no greater than 1m – that has been carried out on the land and that proposed to be undertaken, to allow the fields to be farmed more effectively with the removed rock to remain on the landholding and not be sold* at Keeverstown, Grangebellew, Co. Louth is or is not development and is or is not exempted development

AND WHEREAS the said question was referred to Louth County Council by James Flood,

AND WHEREAS Louth County Council in considering this application, had regard reference particularly to:

- (a) The definition of “development”, in **Section 2 of the Planning and Development Act 2024** (as amended) and Section 2 of the Planning and Development Act 2000 (as amended) in reference to ‘quarry’
- (b) **Section 3 of the Planning and Development Act 2000 (as amended)**

- (c) **Section 4(1) and 4(4) of the Planning and Development Act 2000 (as amended)**
- (d) Specifically, the provisions under **Class 11 of Part 3, Schedule 2 of the Planning and Development Regulations 2001 (as amended)**,
- (e) **Articles 5, 6, 8(c) and 9 of the Planning and Development Regulations 2001 (as amended)**
- (f) **Schedule 5, Part 2 1(a), 2(b) and 11(b) of the Planning and Development Regulations 2001 (as amended) for the purposes of Part 10**
- (g) Planning Appeal ABP-322529-25 and Section 5 Declaration RL15.RI3465
- (h) Planning history of the site
- (i) Plans and particulars forwarded to the Planning Authority

AND WHEREAS Louth County Council has concluded that on the basis of the information submitted that:

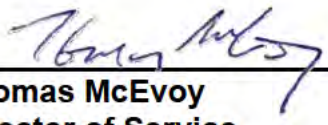
- (a) The ripping and removing of outcrops of rock which involves the breaking and extraction of rock from the land and replacing and infilling with soil with levels no greater than 1m for the purposes of land reclamation and recontouring constitutes 'works' that come within the scope of section 2(1) of the Planning and Development Act 2024 (as amended) and 'quarry' under the Planning and Development Act 2000 (as amended)
- (b) The said works constitute development that comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended
- (c) The said works do come within the scope of the restrictions on exemptions set out at
 - Article 9 (1) (ViiB) of the Planning and Development Regulations 2001 (as amended) whereby the works comprise development in relation to which a Planning Authority or An Coimisiún Pleanála is the competent authority in relation to appropriate assessment because, due to the lack of detail included with the application it cannot be determined if the development would be likely to have a significant effect on the integrity of a European Site; and
 - Article 9 (1) (c) of the said Regulations, whereby, due to the lack of detail included with the application it cannot be determined that the requirement for an Environmental Impact Assessment can be excluded.
- (d) Due to the lack of detail with the application, the said works may come within the scope of the restrictions on exemptions set out under Section 4 (4) of the Planning and Development Act 2000 as amended, insofar as it is considered that the need for Appropriate Assessment (substitute consent) and Environment Impact Assessment cannot be excluded.

NOW THEREFORE Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that *the ripping and removing of outcrops of rock from localised area and replacing with soil – levels to be no greater than 1m – that has been carried out on the land and that proposed to be undertaken, to allow the fields to be farmed more effectively with the removed rock to remain*

on the landholding and not be sold at Keeverstown, Grangebellew, Co. Louth is **development** that is **not exempted development**.

SIGNED:  Date: 29/06/2026
PP Lisa Grant
Assistant Planner

ORDER: In pursuance of the powers conferred upon the Council by the above Act, I concur with the above recommendation and hereby direct that a **Declaration of Exemption be REFUSED** for development as described above.

Signed:  Date: 29/06/2026
Thomas McEvoy
Director of Service

To whom this function has been delegated in accordance with the provisions of Section 154 of the Local Government Act, 2001 by Order No. CE.S. 201/25 dated the 14th day of May 2025.



Comhairle Contae Lú
Louth County Council

James White
c/o Andrew Johnston,
Grangebellew,
Drogheda,
Co. Louth

29th June 2026

Re: Ref. S5 2026/42

Application for Declaration of "Exempted Development" Part 1, Section 5 Planning & Development Act, 2000 (as amended) as to 'Is the ripping and removing of outcrops of rock from localised area and replacing with soil – levels to be no greater than 1m – that has been carried out on the land and that proposed to be undertaken to allow the fields to be farmed more effectively with the removed rock to remain on the landholding and not be sold development, and is it, or is it not, exempted development?'

Dear Sir/Madam,

I wish to acknowledge receipt of your application received on 3rd June 2026 in relation to the above. Having assessed all information and enclosures received with the application, the Planning Authority wishes to advise as follows: -

WHEREAS a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to whether *the ripping and removing of outcrops of rock from localised area and replacing with soil – levels to be no greater than 1m – that has been carried out on the land and that proposed to be undertaken, to allow the fields to be farmed more effectively with the removed rock to remain on the landholding and not be sold* at Keeverstown, Grangebellew, Co. Louth is or is not development and is or is not exempted development

AND WHEREAS the said question was referred to Louth County Council by James Flood,

AND WHEREAS Louth County Council in considering this application, had regard reference particularly to:

Comhairle Contae Lú
Halla an Bhaile
Sráid Crowe
Dún Dealgan
Contae Lú
A91 W20C

Louth County Council
Town Hall
Crowe Street
Dundalk
County Louth
A91 W20C

T +353 42 9335457
E info@louthcoco.ie
W www.louthcoco.ie

Cuirfear fáilte roimh chomhfhreagras Gaeilge - Correspondence in Irish is welcome
Féach foláirimh faoi Lú ón gComhairle ag www.mapalserter.ie/Louth
View Council alerts for Louth at www.mapalserter.ie/Louth

- (a) The definition of "development", in **Section 2 of the Planning and Development Act 2024** (as amended) and Section 2 of the Planning and Development Act 2000 (as amended) in reference to 'quarry'
- (b) **Section 3 of the Planning and Development Act 2000 (as amended)**
- (c) **Section 4(1) and 4(4) of the Planning and Development Act 2000 (as amended)**
- (d) Specifically, the provisions under **Class 11 of Part 3, Schedule 2 of the Planning and Development Regulations 2001 (as amended)**,
- (e) **Articles 5, 6, 8(c) and 9 of the Planning and Development Regulations 2001 (as amended)**
- (f) **Schedule 5, Part 2 1(a), 2(b) and 11(b) of the Planning and Development Regulations 2001 (as amended) for the purposes of Part 10**
- (g) Planning Appeal ABP-322529-25 and Section 5 Declaration RL15.RI3465
- (h) Planning history of the site
- (i) Plans and particulars forwarded to the Planning Authority

AND WHEREAS Louth County Council has concluded that on the basis of the information submitted that:

- (a) The ripping and removing of outcrops of rock which involves the breaking and extraction of rock from the land and replacing and infilling with soil with levels no greater than 1m for the purposes of land reclamation and recontouring constitutes 'works' that come within the scope of section 2(1) of the Planning and Development Act 2024 (as amended) and 'quarry' under the Planning and Development Act 2000 (as amended)
- (b) The said works constitute development that comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended
- (c) The said works do come within the scope of the restrictions on exemptions set out at
 - Article 9 (1) (ViiB) of the Planning and Development Regulations 2001 (as amended) whereby the works comprise development in relation to which a Planning Authority or An Coimisiún Pleanála is the competent authority in relation to appropriate assessment because, due to the lack of detail included with the application it cannot be determined if the development would be likely to have a significant effect on the integrity of a European Site; and
 - Article 9 (1) (c) of the said Regulations, whereby, due to the lack of detail included with the application it cannot be determined that the requirement for an Environmental Impact Assessment can be excluded.
- (d) Due to the lack of detail with the application, the said works may come within the scope of the restrictions on exemptions set out under Section 4 (4) of the Planning and Development Act 2000 as amended, insofar as it is

considered that the need for Appropriate Assessment (substitute consent) and Environment Impact Assessment cannot be excluded.

NOW THEREFORE Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that *the ripping and removing of outcrops of rock from localised area and replacing with soil – levels to be no greater than 1m – that has been carried out on the land and that proposed to be undertaken, to allow the fields to be farmed more effectively with the removed rock to remain on the landholding and not be sold at Keeverstown, Grangebellew, Co. Louth is development that is not exempted development.*

In Summary

A Declaration of Exemption is hereby **REFUSED** for the works as detailed on the plans and particulars submitted on 3rd June 2026.

This decision may be referred by you to An Coimisiún Pleanála for review within 4 weeks of the date of this letter subject to the payment of the appropriate fee.

Yours faithfully,

Maedbh O'Connor

Maedbh O'Connor
Planning Section