

Patrick Mc Dermott



Planning Section  
Donegal County Council  
County House  
Lifford  
Co. Donegal

5th March 2026

Our Ref: McDermott

**RE : Declaration under Section 5 of the Planning & Development Act 2000 (as amended).**

Dear Sir/madam

I wish to seek a declaration from Donegal County Council that development on the lands at Bohirril and Loughagannon, Letterkenny, Co. Donegal, is development and is exempted development. The development consists of the construction of a private road that serves a forest and works ancillary to such construction.

I have enclosed

- (a) a completed application form,
- (b) a location map,
- (c) a layout plan,
- (d) a drawing of the road section
- (e) the appropriate fee of €80.00.

**1. Declaration request.**

- 1.1 I Patrick Mc Dermott seek a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) as to whether the development of a private road that serves a forest and works ancillary to such construction, is or is not development, or is not exempted development.
- 1.2 In this regard consideration is given to Sections 2(1), 3(1), 4(1)(ia) and 177(U)(9) of the Planning and Development Act, 2000 (as amended).

## 2. Description of development

- 2.1 The attached map and layout plan, set out the location of the applicants' family lands with the proposed forestry road highlighted in yellow.
- 2.2 The proposed road will be 4m wide and extend from the private lane serving the applicant's family lands for a distance of 386 metres. The road will be constructed of hard fill material to a depth of 500mm, suitable to support forestry traffic and the removal of harvested forestry.

## 3. Statutory Provisions

- 3.1 **Section 2(1)** of the Planning and Development Act states

*In this Act, except where the context otherwise requires – “development” has the meaning assigned to it by Section 3...*

**Section 3 (1)** of the Planning and Development Act 2000 (as amended) states

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

- 3.2 **Section 177U(9)** of the Planning and Development Act 2000 (as amended) confirms that

*In deciding upon a declaration or a referral under section 5 of this Act a Planning Authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.*

- 3.3 Article 9(1) in the Planning and Development Regulations 2001 (as amended) is also considered relevant to the referral.

- 3.4 **Article 9(1)**:- Development to which Article 6 relates shall not be exempted development for the purposes of the Act, if the carrying out of such development would result in a range of issues. These issues, outlined in article 9(1)(a), (b), (c) and (d), are set out and addressed in Appendix A of this declaration. while Appendix B presents an Appropriate Assessment Screening in relation the likelihood of a significant effect on the integrity of a European site [Issue-9(1)(a)(viiB)].

#### 4. Assessment

- 4.1 It is acknowledged by reference to Section 2(1) and 3(1) of the Act, that the development of a forestry road is development. The question is whether or not the development constitutes exempted development.
- 4.2 It is respectfully considered that the relevant class of development in this declaration case, is that described in Section 4(1)(ia) of the Planning & Development Act 2000 (as amended).
- 4.3 Section 4(1)(ia) confirms that
- 4(1) The following shall be exempted developments for the purposes of this Act*
- 4(1)(ia) development (other than development consisting of the provision of access to a national road within the meaning of the Roads Act 1993) that consists of—*
- (I) the construction, maintenance or improvement of a road (other than a public road) that serves a forest or woodland, or*
- (II) works ancillary to such construction, maintenance or improvement.*
- 4.4 In relation to Article 9(1), which restricts the exempted development status afforded to development under Article 6(1), the assessment in Appendix A sets out how the plant complies with all the issues listed under Article 9(1), while Appendix B contains an Appropriate Assessment Screening report.

#### 5. Conclusion

- 5.1 The development of a private forestry road with access to an existing private lane is considered to be exempted development having regard to the statutory planning provisions set out above.
- 5.2 I would be grateful therefore if the planning authority could confirm that the development as described, is development and exempted development.

Yours sincerely

Patrick Mc Dermott

## APPENDIX A

Issues in article 9(1)(a) to 9(1)d inclusive of the Planning &  
Development Regulations 2001-23 addressed.

## Planning & Development Regulations 2001-23.

Article 9(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act

| <b>(a) if the carrying out of such development would—</b>   |   |
|---|---|
|   | <b>Comment</b>  |
| (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,                                    | The development does not contravene any condition to a permission 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, | The development of the forestry road does not involve the 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,  | The development of the forestry road does not endanger public safety by reason of traffic hazard or obstruction of road users. Full visibility is available at the junction of the existing private lane and the public road L-5912-1 |
| (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,  | Not applicable. Glare for operation of airports, aerodromes or aircraft does not arise.   |

|   |  |
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| <p>(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,</p> | <p>The development of the forestry road does not bring forward the building line, as it is located to the rear of the existing private lane, serving the McDermott family Land.</p>  |
| <p>(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,</p>  | <p>The development of the forestry road does not involve works under a public road.</p>  |
| <p>(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,</p>   | <p>In the Donegal County Development Plan 2024-30, the site for development is designated as an ‘Area of High Scenic Amenity’ (HSA), which are <i>landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and form a fundamental element of the landscape and identity of County Donegal. These areas have the</i></p> |

|   |   |
|---|---|
|   | <p><i>capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape.</i></p> <p>There are no designated views identified in the area, as shown on the extract from Map 11.1 Scenic Amenity in the Donegal CDP 2024-30, attached below, with the nearest designated view/prospect from the N13 at Manorcunningham.</p> <p>It is considered that the modest scale of the development of the forestry road and the substantial distance from the identified viewing points results in the proposed development not interfering with the character of a landscape, or the designated views.</p> |
| <p>(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,</p> | <p>Not applicable. No places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest exist within, or in the vicinity of the development site. The nearest archaeological feature is an unclassified cairn (DG045-034) located on top of Carn Hill circa 0.5 kms from the proposed forestry road.</p>   |

|   |  |
|---|--|
| <p>(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,</p> | <p>Not applicable. No archaeological monument exists within or in the vicinity of the site.</p>  |
| <p>(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,</p>  | <p>An Appropriate Assessment screening is attached (see Appendix B below). The screening concludes that the development of the forestry road will not have any significant negative impacts on the integrity of any Natura 2000 site and no further assessment is necessary.</p> |
| <p>(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.</p>  | <p>Not applicable. The site is not located in an area designated as a natural heritage area.</p>   |
| <p>(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,</p>  | <p>The development of the forestry road does not comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.</p>  |
| <p>(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</p>   | <p>The development of the forestry road will not preclude or restrict the continuance of an existing use of a building or other structure, where it is an objective of the</p>   |

|   |   |
|---|---|
| <p>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,</p>  | <p>planning authority to ensure that the building or other structure would remain available for such use.</p> |
| <p>(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,</p>   | <p>No fencing or enclosure of habitually open land is involved in the development of the forestry road</p>    |
| <p>(xi) obstruct any public right of way,</p>   | <p>The development of the forestry road does not obstruct any public right of way,</p>                        |
| <p>(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,</p> | <p>The forestry road is not located within an architectural conservation area.</p>                            |

**(b) in an area to which a special amenity area order relates, if such development would be development:—**

- (i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof ), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or
- (ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or
- (iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or
- (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,

No special amenity area order exists at the location of the forestry road.

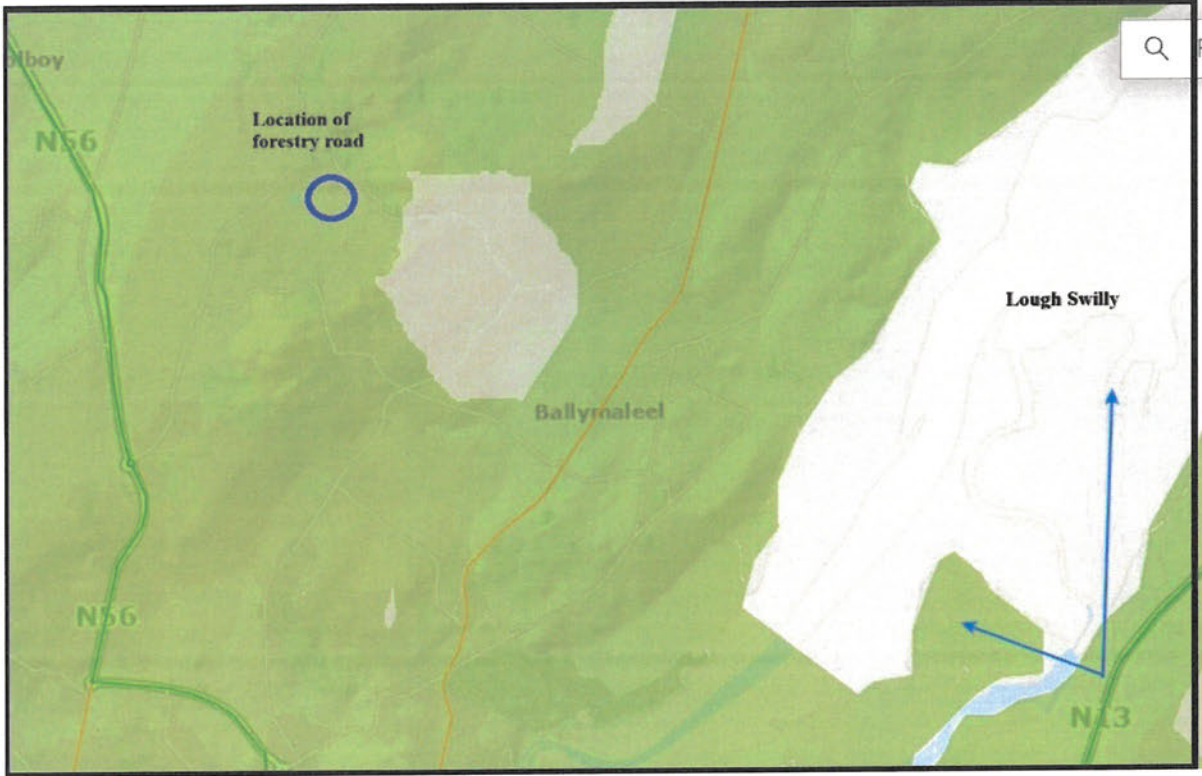
**(c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,**

**Comment:**The forestry road does not fall within the categories set out in Schedule 5 of the planning regulations and so is not subject to a requirement for environmental impact assessment.

**(d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.**

**Comment:** The development of a forestry road does not consist of the provision of, or modifications to, an establishment, which could have significant repercussions on major accident hazards.

Extract from Map 11.1 Scenic Amenity - (CDP 2024 - 2030) demonstrating scenic amenity designation of the forestry road and its distance from the nearest designated view/prospect.



## APPENDIX B

Screening for Appropriate Assessment.

# APPROPRIATE ASSESSMENT SCREENING FOR THE PURPOSES OF ARTICLE 6 OF THE HABITATS DIRECTIVE

**Applicant Name:** Patrick Mc Dermott

## **1.0 Description of Project**

The subject site is located in the townlands of Bohirril and Loughagannon, Letterkenny, Co. Donegal. The applicant seeks a determination under Section 5 of the P&D Act 2000 (as amended) whether the development of forestry road is exempted development.

## **2.0 Natura 2000 sites**

The site is located approximately 3kms south of closest Natura 2000 site, the Leannan River SAC (Code 002176) and is also located circa 4kms northwest of the Lough Swilly SPA (site code: 004075).

## **3.0 Leannan River SAC (Code 002176)**

The Leannan river SAC comprises the River Leannan and its main tributaries and lakes, including Loughs Fern, Gartan and Akibbon. The Leannan River flows from Lough Gartan in a north-easterly direction, passes through Lough Fern, and then onwards in an easterly direction through the town of Rathmelton and into Lough Swilly.

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (\* = priority; numbers in brackets are Natura 2000 codes):

[3110] Oligotrophic Waters containing very few minerals

[3130] Oligotrophic to Mesotrophic Standing Waters

[1029] Freshwater Pearl Mussel (*Margaritifera margaritifera*)

[1106] Atlantic Salmon (*Salmo salar*)

[1355] Otter (*Lutra lutra*)

[1833] Slender Naiad (*Najas flexilis*)

The river has good water quality and its banks are fringed more or less continuously by deciduous woodland. The adjacent habitat is mainly wet grassland which has been improved to varying degrees for grazing. There is also a good scattering of woodland, mostly deciduous, in the surrounding area. A principal interest of this site lies in the presence of a population of Freshwater Pearl Mussel, a species listed on Annex II of the E.U. Habitats Directive and also protected under the Wildlife Act, 1976. A

survey in 1995 estimated the population within the site at about 1,000 individuals, ranging in age from comparatively young (< 5 years) to 80+ years. The site also supports Atlantic Salmon, another species listed in Annex II of the E.U. Habitats Directive. The Leannan is a good spring and grilse salmon river with extensive spawning habitats and good water quality.

A main threat to the overall quality of the site is intensification of agriculture in the surrounding areas which could lead to eutrophication of the lake and river waters. Lake acidification is also a potential threat. Reduction in water quality, lake acidification and introduction of alien fish species are all threats to the population of Arctic Char in Lough Gartan. The population of breeding Red-throated Diver is vulnerable to disturbance from activities such as boating and angling. This site is of high conservation importance, due to the presence of the Habitats Directive Annex I habitat oligotrophic lakes of sandy plains, as well as the Annex II species Freshwater Pearl Mussel, Otter, Atlantic Salmon and Slender Naiad.

#### ***4.0 Lough Swilly SPA (Site Code: 004075)***

Lough Swilly is a long sea inlet cut through a variety of metamorphic rocks, situated on the west side of the Inishowen Peninsula in north Co. Donegal. The SPA comprises the inner part of Lough Swilly from just east of Letterkenny northwards to Killygarvan (c. 2 km north of Rathmullan) on the west side and to c. 2 km south of Bunrana on the east side; it includes the adjacent Inch Lough. Also forming part of the site is a series of improved pasture and arable fields on the south side of Lough Swilly between Farsetmore and Inch Levels – these are of importance to geese and swans. It includes sections of the estuaries of the River Swilly, the River Leannan and the Isle Burn and the predominant habitat is a series of extensive sand and mud flats which are exposed at low tide - both estuaries and sand/mud flats are listed on Annex I of the E.U. Habitats Directive.

Other habitats represented in the site are salt marshes, lagoons (at Inch Lough and Blanket Nook), rivers and streams, sand and shingle beaches, lowland wet and dry grasslands, drainage ditches, reedbeds and scrub. Inch Lough, whilst artificial in origin, is one of the largest and best examples of a shallow, low salinity lagoon in the country; it supports what is probably the largest population in the country of the Red-listed charophyte *Chara canescens*. A small sandy island, used by nesting terns, swans and gulls, occurs in the southern part of the lagoon.

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Great Crested Grebe, Grey Heron, Whooper Swan, Greenland White-fronted Goose, Greylag Goose, Shelduck, Wigeon, Teal, Mallard, Shoveler, Scaup, Goldeneye, Red-breasted Merganser, Coot, Oystercatcher, Knot, Dunlin, Curlew, Redshank, Greenshank, Black-headed

Gull, Common Gull, Sandwich Tern and Common Tern. The site is also of special conservation interest for holding an assemblage of over 20,000 wintering waterbirds.

The combination within this site of extensive feeding areas and safe resting and roosting sites makes this one of the most important wetlands in the north-west of the country for wintering waterfowl.

Lough Swilly SPA is of major ornithological importance for wintering waterbirds, with three species occurring in numbers of international importance and 18 occurring regularly in numbers of national importance. The site is regularly used by more than 20,000 waterfowl and as such is of international importance. Additionally, it holds nationally important breeding populations of three species, i.e. Sandwich Tern, Common Tern and Black-headed Gull. The site is used by a good range of species that are listed on Annex I of the E.U. Birds Directive. Part of Lough Swilly SPA is a Wildfowl Sanctuary.

**5.0 Assessment of likely effects:**

| Potential Impact Types and Significance Impact type | Significance indicator                                       | Comments  |
|---|--|---|
| Loss of habitat area                                | Percentage of loss   | <b>None – the site is not located within the SAC or SPA</b>   |
| Fragmentation                                       | Duration or permanence, level in relation to original extent | <b>N/A</b>  |
| Disturbance   | Duration or permanence, distance from site                   | <b>N/A - no significant disturbance effects are envisaged.</b>  |
| Species population density                          | Timescale for replacement                                    | <b>N/A – it is not considered that the development will have any impact on the population density of protected species.</b> |
| Water resource                                      | Relative change  | <b>It is not considered that the proposed development will have any significant impact on water resources</b>               |

Further to an assessment of the proposed development having regard to

(i) the qualifying interests of the River Leannan SAC and the Lough Swilly SPA,

(ii) the modest scale of the development

(iii) its separation distance from the both the SAC and SPA and

(iv) the absence of any direct fluvial connection to the SAC or SPA

it is considered that the proposed development would not have a significant effect on the Leannan River SAC (Code 002176) or the Lough Swilly SPA (Code 004075)

**6.0 Screening Determination:**

It has been determined that an appropriate assessment of the proposed development is not required as it can be excluded on the basis of objective scientific information that the proposed development of the forestry road, individually or in combination with other plans/projects will have a significant effect on the European Sites – the River Leannan SAC (site code: 002176) and the Lough Swilly SPA (site code: 004075).

Signed



**Noel Mc Dermott Dip. Civil Eng. M.I.S.**

Tel. 074 9127720

Email: noel@landsurveyors.ie



**Comhairle Contae  
Dhún na nGall**  
Donegal County Council

## SECTION 5 APPLICATION

FOR DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

**Completed application form & supporting documentation to be returned to the  
Planning Authority by email to [planning@donegalcoco.ie](mailto:planning@donegalcoco.ie)**

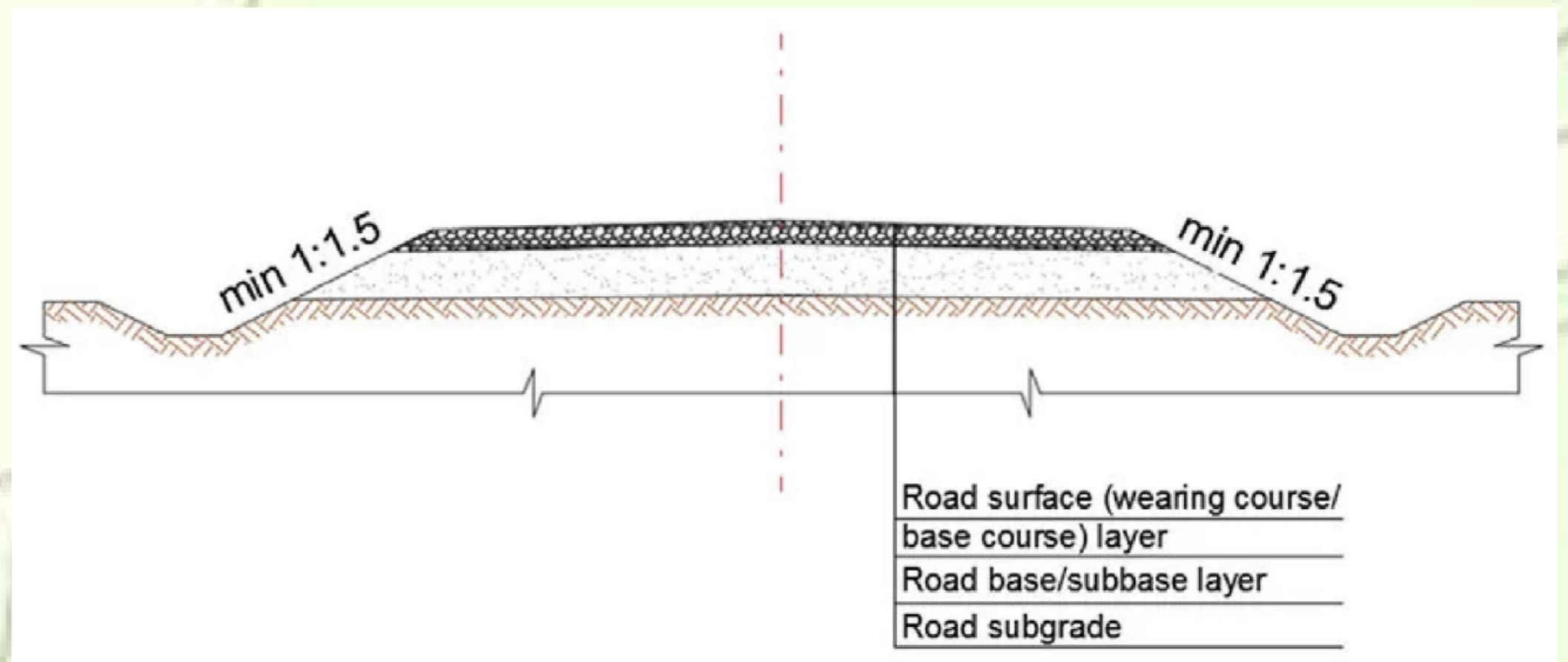
|   |                           |
|---|---------------------------|
| <b>Name of Applicant(s):</b>  | Patrick McDermott         |
| <b>Agent Name:</b><br>(if applicable)   |                           |
| <b>Location of Proposed Development / Works:</b><br>(Townland or postal address as appropriate and Eircode if available)  | Bohirril and Loughagannon |
| <b>Description of Proposed Development including details of works (where applicable):</b><br>(Only works listed below will be assessed under <u>this</u> section 5 application) |                           |
| The construction of a forestry road   |                           |



|  |                             |           |
|--|-----------------------------|-----------|
| <b>Is the development a Protected Structure or within the curtilage of a Protected Structure?</b>  | <b>Yes</b>                  | <b>No</b> |
|  |                             | X         |
| <b>Has a declaration under Section 57 of the Planning and Development Act 2000 (as amended) been requested or issued in respect of the property.</b> | <b>Yes</b>                  | <b>No</b> |
|  |                             | X         |
| <b>Applicant(s) Interest in the site:</b>  |                             |           |
| <b>If not the Owner of the site, please provide the name of the Landowner:</b>   |                             |           |
| <b>Please list types of plans, drawings etc. submitted with this application:</b>  | Location map<br>Layout plan |           |
| <b>Planning History - list any relevant planning application reference numbers:</b>  | N/A                         |           |
| <b>Are you aware of any enforcement proceedings connected to the site? If so, please supply details:</b>   | No                          |           |

|  |  |
|--|--|
| <b>I hereby certify that the information provided is true and accurate</b> |  |
| <b>Signature of Applicant/Agent:</b>                                       |  |
| <b>Date:</b>   |  |

Existing entrance to  
County Road



Road Cross Section

Proposed 4m wide road

Forest Road  
at Bohirril/Loughagannon,  
Letterkenny,  
Co. Donegal  
For Patrick Mc Dermott

Site Layout Plan  
Scale 1:500







**Comhairle Contae  
Dhún na nGall**  
Donegal County Council

Áras an Chontae,  
Leifear,  
Contae Dhún na nGall, F93 Y622

County House,  
Lifford,  
County Donegal, F93 Y622

**T:** 074 91 53900  
**E:** info@donegalcoco.ie  
**W:** www.donegalcoco.ie  
**W:** www.ccdhunnangall.ie

**Planning Services**  
**E:** planning@donegalcoco.ie

**E- mail:** noel@landsurveyors.ie

**Ref. No:** S526/33

[REDACTED] 2026  
Patrick McDermott  
[REDACTED]

## DECLARATION ON DEVELOPMENT & EXEMPTED DEVELOPMENT

**Re: Application for a Section 5 Declaration – Construction of a forestry road at Bohirril & Loughagannon, Letterkenny, Co Donegal.**

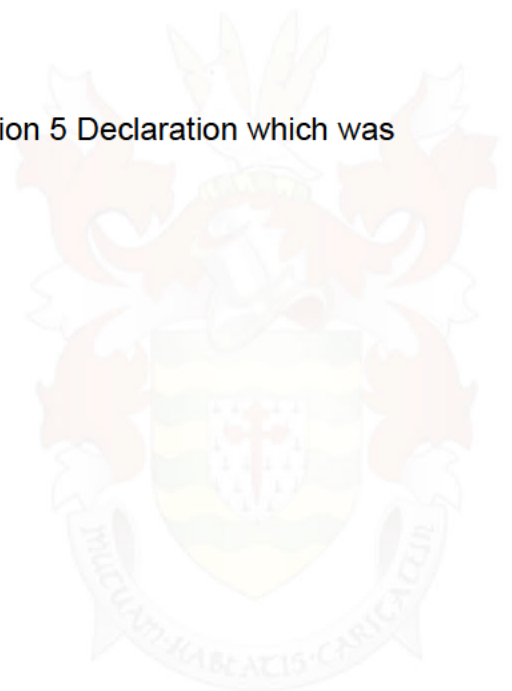
A Chara,

I wish to acknowledge receipt of your application for a Section 5 Declaration which was received on 5<sup>th</sup> March, 2026.

Mise le meas

*Martina Parke*

Donegal County Council  
Planning Services



## **SECTION 5 REFERRAL REPORT – Ref. No: S5 26/33**

### **1.0 BACKGROUND**

#### **1.1 Location:**

The site is an upland rural site in the townland of Bohirril and Loughagannon, north of Letterkenny.

#### **1.2 Planning History:**

No relevant history

#### **1.3 Proposed Development:**

The development the subject of this Section 5 referral relates to:

The construction of a forestry road. The proposed road will be 4m wide and extend from the private lane serving the applicant's family lands for a distance of 386 metres.

The road will be constructed of hard fill material to a depth of 500mm, suitable to support forestry traffic and the removal of harvested forestry.

### **2.0. THE QUESTION**

The referrer seeks a declaration that as to whether the development of a private road that serves a forest and works ancillary to such construction, is or is not development, or is not exempted development

### **3.0 EVALUATION**

#### **3.1 Planning and Development Act, 2000 (as amended)**

##### **Section 2(1)**

In this Act, except where the context otherwise requires -

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and

(a) where the context so admits, includes the land on, in or under which the structure is situate ...

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal ...

##### **Section 3(1)**

"Development" in this Act 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.

**Section 4 (1) (a) – (i)** sets out what is exempted development for the purposes of this Act and includes the following:

"(h) development consisting of the carrying out of works for the

maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;”

“(ia) development (other than where the development consists of provision of access to a public road) consisting of the construction, maintenance or improvement of a road (other than a public road) or works ancillary to such road development, where the road serves forests and woodlands.”

Section 4 (2) provides for the making of Regulations. The main Regulations are the Planning and Development Regulations, 2001.

### **Section 177U(9)**

“In deciding upon a declaration for the purposes of Section 5 of this Act a planning authority or the Board, as the case maybe, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this Section.”

## **3.2 Planning & Development Regulations 2001 (as amended)**

**Article 9 (1)** (a) sets out the instances where development, to which Article 6 relates, shall not be exempted development for the purposes of the Act 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,

**Article 8F.** Development (other than the replacement of broadleaf high forest by conifer species) that is licensed or approved under section 6 of the Forestry Act 2014 (No. 31 of 2014) and that consists of – (a) the thinning, felling or replanting of trees, forests or woodlands, or (b) works ancillary thereto, shall be exempted development

(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.

**Article 8G** states that “development (other than where the development consists of provision of access to a public road) consisting of the construction, maintenance or improvement of a road (other than a public road), or works ancillary to such road development, where the road serves forests and woodlands, shall be exempted development.”

#### **4.0. ASSESSMENT**

**4.1** The proposal comprises the construction of a forestry road extending 386 metres, including excavation and the laying of hard fill material.

Having regard to the definition of “works” under Section 2(1) of the Planning and Development Act, 2000 (as amended), the proposal constitutes “works” and therefore falls within the definition of development under Section 3(1) of the Act.

Section 4(1)(ia) of the Planning and Development Act, 2000 (as amended) and Article 8G of the Planning and Development Regulations 2001 (as amended) provide an exemption for the construction of a road (other than a public road) serving forestry, except where the development consists of the provision of access to a public road.

In this instance, the proposed forestry road connects to an existing private lane serving the applicant’s lands. No works are proposed to create, widen or otherwise alter any access onto a public road.

Having regard to the nature and extent of the works proposed, and consistent with established interpretations of Section 4(1)(ia), the development does not constitute the provision of materially modified access to a public road and therefore falls within the scope of exempted development, subject to compliance with the relevant statutory provisions.

The applicant has submitted Appropriate Assessment Screening. Having reviewed the information submitted, the Planning Authority concurs with the findings and is satisfied that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site. Accordingly, Appropriate Assessment is not required.

#### **5.0 RECOMMENDATION**

IT IS HEREBY RECOMMENDED THAT A DECLARATION BE MADE THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE –

**IS Development**

&

**IS Exempted Development**

**WITHIN THE MEANING OF THE ABOVE ACT**

**The proposal for:**

- The construction of a forestry road.

**The Planning Authority in considering this referral, had regard particularly to:**

Sections 2, 3, 4 and 177U of the Planning and Development Act, 2000 (as amended)

Articles 8F, 8G and 9 of the Planning and Development Regulations 2001 (as amended)  
The nature and extent of the works proposed.

**And concluded that:**

The proposal IS DEVELOPMENT within the meaning of the Planning and Development Act, 2000 (as amended) and is EXEMPTED DEVELOPMENT, The proposed development, comprising a forestry road connecting to an existing private lane with no alteration to any access onto a public road, falls within the scope of exempted development under Section 4(1)(ia) of the Act and Article 8G of the Planning and Development Regulations 2001 (as amended), subject to compliance with all relevant conditions and limitations.



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Executive Planner  
Development Applications Unit  
01/04/2026



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Frank Sweeney  
Senior Executive Planner  
Community Development & Planning Services  
01/04/2026



**Comhairle Contae  
Dhún na nGall**  
Donegal County Council

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**Planning Services**  
E: planning@donegalcoco.ie

Ref. No: S526/33

By Email Only to: [noel@landsurveyors.ie](mailto:noel@landsurveyors.ie)

1<sup>st</sup> April 2026

PATRICK MCDERMOTT



struction of a forestry road at Bohirril and Loughagannon, Letterkenny,  
Donegal

A Chara,

I refer to your request received on 5<sup>th</sup> March 2026 under Section 5 of the Planning and Development Act, 2000 (as amended). Same has now been decided and I now issue to you herewith the Council's Declaration thereon. You are now advised that, in accordance with Section 5 (3) (a) of the Planning & Development Act, 2000 (as amended) where a Declaration is issued, any person issued with such a Declaration may, on payment to An Coimisiún Pleanála of such fee as may be prescribed, refer a Declaration for review by the Commission within 4 weeks of the date of issuing of the Declaration.

Mise, le meas,

**For Senior Executive Planner  
Planning Services**

/RMcC



**Planning and Development Acts, 2000 (as amended)**

**(Declaration and Referral on Development and Exempted Development)**

**DECLARATION**

**Chief Executive Order No:** 2026PH0880  
**Reference No:** S526/33  
**Name of Requester:** PATRICK MCDERMOTT



**Summarised Description of development the subject matter of request:**

Construction of a forestry road.

**Location:** Bohirril and Loughagannon, Letterkenny, Co. Donegal.

**IT IS HEREBY DECLARED THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE**

**IS** Development

**IS** Exempted Development

**WITHIN THE MEANING OF THE ABOVE ACT**

**The Planning Authority in considering this referral, had regard particularly to:**

- Sections 2, 3, 4 and 177U of the Planning and Development Act, 2000 (as amended)
- Articles 8F, 8G and 9 of the Planning and Development Regulations 2001 (as amended)

**And concluded that:**

The proposal **IS DEVELOPMENT** within the meaning of the Planning and Development Act, 2000 (as amended) and **IS EXEMPTED DEVELOPMENT** as it falls within the scope of exempted development under Section 4(1)(ia) of the Act and Article 8G of the Planning and Development Regulations 2001 (as amended), subject to compliance with all relevant conditions and limitations.

  
**For Senior Executive Planner  
Planning Services**

**Dated this 1<sup>st</sup> day of April 2026**

DONEGAL COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (AS AMENDED)

Chief Executive  
Order No:

2026PH0880

Ref Number:

S526/33

Section 5:

Request received 5<sup>th</sup> March 2026 from Patrick McDermott, [REDACTED] in relation to the construction of a forestry road at Bohirril and Loughagannon, Letterkenny, Co. Donegal.


Submitted:

Written request received 5<sup>th</sup> March 2026 as above and report dated 1<sup>st</sup> April 2026 from the Planner (Ref. No: S5 26/33 refers).

  
DAVID DONNELL  
STAFF OFFICER

Order:

Having considered the said request, the report of the Planner, and the record forwarded to the Council by An Coimisiún Pleanála in compliance with Sub-Section 6(c) of the said Section I have concluded that a declaration on the questions in the said request should be made in the terms of that in the Schedule to this Order, the main reasons and considerations therefore being detailed therein. I therefore Order that the declaration issue to the said requester and the owners/occupiers of the land concerned and, further, that it be entered in the Council's Planning Register in compliance with Sub-Section (5) of the said Section.

  
FRANK QUENEY  
SENIOR EXECUTIVE PLANNER

DATED THIS 15<sup>th</sup> DAY OF APRIL 2026

SCHEDULE

**IT IS HEREBY DECLARED THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE**

**IS** Development

**IS** Exempted Development

**WITHIN THE MEANING OF THE ABOVE ACT**

**The Planning Authority in considering this referral, had regard particularly to:**

- Sections 2, 3, 4 and 177U of the Planning and Development Act, 2000 (as amended)
- Articles 8F, 8G and 9 of the Planning and Development Regulations 2001 (as amended)

**And concluded that:**

The proposal **IS DEVELOPMENT** within the meaning of the Planning and Development Act, 2000 (as amended) and **IS EXEMPTED DEVELOPMENT** as it falls within the scope of exempted development under Section 4(1)(ia) of the Act and Article 8G of the Planning and Development Regulations 2001 (as amended), subject to compliance with all relevant conditions and limitations.

*J3 01/04*

**From:** [RUTH MCCROSSAN](#)  
**To:** [noel@landsurveyors.ie](mailto:noel@landsurveyors.ie)  
**Subject:** Section 5 - S5 26/33  
**Date:** 01 April 2026 14:57:00  
**Attachments:** [image001.png](#)  
[S5 26.33-Letter & Declaration- SIGNED.pdf](#)

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Dear Noel,

Please find attached Declaration in relation to above.

If you have any queries, please email [planning@donegalcoco.ie](mailto:planning@donegalcoco.ie)

Kind regards

**Ruth McCrossan**

Development Management | Community Development & Planning Services | Donegal  
County Council | Lifford | Co. Donegal

**Tel: + 353 74 9153900 | Email: [ruthmccrossan@donegalcoco.ie](mailto:ruthmccrossan@donegalcoco.ie)**



**Comhairle Contae  
Dhún na nGall**  
Donegal County Council