



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

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**Damien Mason
C/o Deirdre Foran
Lisdoonvarna
Co. Clare**

30th October, 2024

Section 5 referral Reference R24-71 – Damien Mason

Is the partial demolition of the existing sheds and the building of new hayshed and machinery shed/repair workshop on the farmyard complex development and if so, is it exempted development?

A Chara,

I refer to your application received on 11th September 2024 and by way of further information received on 18th October 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

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

Mise, le meas

**Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate**

**An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach**

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

**Planning Department
Economic Development Directorate**

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



CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No: 84393

Reference Number: R24-71

Date Referral Received: 11th September 2024

Date Further Information Received: 18th October 2024

Name of Applicant: Damien Mason

Location of works in question: Barrtra, Lahinch, Co. Clare

Section 5 referral Reference R24-71 – Damien Mason

Is the partial demolition of the existing sheds and the building of new hayshed and machinery shed/repair workshop on the farmyard complex development and if so, is it exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, and 3 of the Planning and Development Act 2000, as amended,
- (b) Class 9, Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (c) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (d) The details and drawing as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The development consisting of the partial demolition of the existing sheds and the building of new hay sheds and machinery shed/ repair workshop on the farm yard complex constitutes "works" and "development" which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- (b) On the basis that the said development, consisting of a new hay shed and machinery shed / repair workshop is for agricultural use only, it is considered that the subject development is exempted development having regard to Class 9 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, and Article 9 as amended, including the conditions and limitations therein.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Candace Ingram, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Candace Ingram, Senior Executive Planner, hereby declare that the partial demolition of the existing sheds and the building of new hay sheds and machinery shed/repair workshop on the farm yard complex at Barrtra, Lahinch, Co. Clare is considered development which is exempted development.

Signed:



CANDACE INGRAM
SENIOR EXECUTIVE PLANNER



Date:

30th October, 2024

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

Reference No.: R24-71



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R24-71

Is the partial demolition of the existing sheds and the building of new hayshed and machinery shed/repair workshop on the farmyard complex development and if so, is it exempted development?

AND WHEREAS, Damien Mason has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, and 3 of the Planning and Development Act 2000, as amended,
- (b) Class 9, Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (c) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended.
- (d) The details and drawing as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The development consisting of the partial demolition of the existing sheds and the building of new hay sheds and machinery shed/ repair workshop on the farm yard complex constitutes "works" and "development" which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- (b) On the basis that the said development, consisting of a new hay shed and machinery shed / repair workshop is for agricultural use only, it is considered that the subject development is exempted development having regard to Class 9 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, and Article 9 as amended, including the conditions and limitations therein.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the partial demolition of the existing sheds and the building of new hay sheds and machinery shed/repair workshop on the farm yard complex at Barrtra, Lahinch, Co. Clare constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

A handwritten signature in blue ink, reading "Anne O'Gorman", with a horizontal line underneath.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

30th October, 2024

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: R 24/ 71 Damien Mason
APPLICANT(S):

REFERENCE: Whether the partial demolition of the existing sheds and the building of new hayshed and machinery/ repair workshop on the farmyard complex at Barratra Lahinch constitute development and if so, is it exempted development.

LOCATION: Barratra Lahinch, Co. Clare

DUE DATE: 06/11/ 24

Further information was requested as follows on the 7th October 24

1. Please be advised that Article 9 of the Planning and Development Regulations 2001, (as amended) outlines restrictions on exempted development. In this instance under Article 9 (viii) developments which 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 cannot be considered to constitute exempted development. It appears from the details received that the proposed development may comprise works to an unauthorised structure as the planning status of the existing sheds to be partially demolished and extended is not clear. The sheds on the western side of the site appear to comprise a mixture of stone wall and concrete block, the planning status of which is not recorded. Please submit details to demonstrate that planning status of these buildings that it is proposed to partially demolish, alter and extend.

2. (a) Similarly please be advised that it was noted on inspection that there is an existing slatted unit on site, which does not appear to have the benefit of planning permission. Please indicate the planning status of same.

b. Under Article 9 (vii) (b) of the aforementioned Regulations the proposal cannot be considered exempted development if it would comprise a development that requires an Appropriate Assessment (Habitat Directive) because it would be likely to have a significant effect on the integrity of a European site in particular the Inagh River estuary SAC. In respect of the development referred to at 2 (a) above please submit scaled drawings of same, number of livestock housed, period of housing and volume of effluent produced together with a Dept of Agriculture land holding map for the area of land owned, leased or rented by the applicant clearly marking the area suitable for land spreading of effluent.

Summary of Applicant's Response

1. The shed located on the western side of the site that it is proposed to alter and extend is a pre 1963 structure.
2. The existing slatted shed has a floor area of 54 sq.m. located greater than 10m from the public road. The structure was present on the site when the applicant purchased it. It is a Type 1 structure, not exceeding 200 sq.m., and falls into the criteria for exempted development.
3. A map has been submitted showing the area suitable for land spreading of effluent. There are 8 cattle housed from late October to early March /April. The volume of the underground tank is 120 cubic metres(26,000 gallons) and it fills to 75 % of the capacity each season. Dept of Agriculture guidelines recommends spreading 200 gallons of slurry per acre.

Background to Referral

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

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

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

'Development' are defined in Section 3 of the *Planning and Development Act 2000, as amended* as follows:

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

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

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

Part 3 Exempted Development Rural- Article 6

Class 9

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

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

Conditions and Limitations

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

Class 50 - Schedule 2 Article 6 Part 1- Exempted Development General.

The demolition of a building, or buildings, within the curtilage of— (i) a house, (ii) an industrial building, (iii) a business premises, or (iv) a farmyard complex.

- 1.No such building or buildings shall abut on another building in separate ownership.
2. The cumulative floor area of any such building, or buildings, shall not exceed:
 - (a) in the case of a building, or buildings within the curtilage of a house, 40 square metres,
 - and (b) in all other cases, 100 square metres.

3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act. (applications for screening for EIA)

Schedule 2, Article 6, Part 1 – Exempted Development General.

Under Article 9 (1) of the same Regulations, *development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

(a) if the carrying out of such development would –

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
- (ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,*
- (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*
- (vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the partial demolition of the existing sheds and the building of new hay sheds and machinery shed/ repair workshop on the farm yard complex constitute development and if so is it exempted development .

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

Class 9

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

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

The shed is for the storage of farm equipment and feed and is not for the housing of animals and as such falls under class 9.

Conditions and Limitations

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

This is the case having regard to the information on file and site inspection.

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

There is no other storage shed of this class on the farmyard complex.

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

The proposed new structure is 12m distance set back from the public road and as such complies with this condition/ limitation.

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

The maximum height is 5.0 m to the ridge and as such complies with this condition/ limitation.

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

I note letters from residents living within 100 radius the shed giving their consent to the proposal.

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

External finishes are not specified in the drawings received.

In respect of the demolition of the existing sheds the following class is relevant.

Class 50 - Schedule 2 Article 6 Part 1- Exempted Development General.

The demolition of a building, or buildings, within the curtilage of— (i) a house, (ii) an industrial building, (iii) a business premises, or (iv) a farmyard complex.

1.No such building or buildings shall abut on another building in separate ownership.

The sheds to be demolished are constructed in such a manner that the western wall of the site (party boundary) forms the wall of the shed. I note in this regard that Flanagan's (household 1) have consented to the proposed development .

2. The cumulative floor area of any such building, or buildings, shall not exceed:
(a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and (b) in all other cases, 100 square metres.

The floor area of the building to be demolished is approximately 36 sq.m.

3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act. (applications for screening for EIA)

Article 9 of the Planning and Development Regulations 2001, as amended

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

(i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

N/A- No planning history

(ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

No alterations to the existing access point are proposed.

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

N/A.

(iiia) *endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

N/A.

- (iv) *interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

The site is within designated Heritage landscape. However there are a number of dwellings and farm buildings in the vicinity and in this context adverse impact on the visual amenity of the area does not arise.

- (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,*

N/A This is not applicable in this instance.

- (vi) *consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

N/A This is not applicable in this instance.

- (vii)
- a. *consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

N/A This is not applicable in this instance .

- b. *comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

The applicant has submitted a maps of spread lands. There are no rivers or streams shown the spread lands extending to the Inagh River estuary SAC. As such no significant effects on the SAC are envisaged. See screening report attached.

- c. *consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."*

This is not applicable in this instance as the subject site is not located in a NHA or p NHA.

- (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,*

The structure being altered is pre 1963.

The planning status of the slatted shed on site has bene clarified as is considered exempted development .

- (ix) *consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

This is not applicable in this instance.

- (x) *consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

This is not applicable in this instance.

- (xi) *obstruct any public right of way,*

This is not applicable in this instance.

- (xii) *further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the*

area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

This is not applicable in this instance.

Conclusion

Having regard to the provisions of Class 9 of the Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, proposed development can be considered to constitute development which is exempted development.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the partial demolition of the existing sheds and the building of new hay sheds and machinery shed/ repair workshop on the farm yard complex constitute development and if so is it exempted development .

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, and 3 of the Planning and Development Act 2000, as amended,
- (b) Class 9, Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (c) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (d) The details and drawing as indicated in submitted documents from the referrer.

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

- (a) the development consisting of the partial demolition of the existing sheds and the building of new hay sheds and machinery shed/ repair workshop on the farm yard complex constitutes "works" and "development" which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- (b) On the basis that the said development, consisting of a new hay shed and machinery shed / repair workshop is for agricultural use only, it is considered that the subject development is exempted development having regard to Class 9 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, and Article 9 as amended, including the conditions and limitations therein.

Now therefore Clare County Council (Planning Authority), hereby decides the partial demolition of the existing sheds and the building of new hay sheds and machinery shed/ repair workshop on the farm yard complex constitute development which is exempted development.

Ellen Carey

**Ellen Carey
Executive Planner**

Date: 24/10/24.

Gareth Ruane

**Gareth Ruane
Senior Executive Planner**

Date: 24/10/24.

REVISED Appropriate Assessment & Determination on foot of receipt of f.i.

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	Section 5 R24/ 71
(b) Brief description of the project or plan:	Agricultural storage shed
(c) Brief description of site characteristics:	Extension and alterations to dry sheds
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Inagh River estuary SAC	Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410]	2.45km as the crow flies	None	No

Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]				
Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]				

- ¹ Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.
- ² If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects	
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:	
Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering 	Surface water runoff from soil excavation

<ul style="list-style-type: none"> • Storage of excavated/construction materials • Access to site • Pests 	
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	Land spreading arising from effluent from existing slatted shed within the same farm yard.
In-combination/Other	None

(b) Describe any likely changes to the European site:	
<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation status value (water or air quality etc.) • Changes to areas of sensitivity or threats to QI • Interference with the key relationships that define the structure or ecological function of the site 	none

(c) Are '*mitigation*' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

☐ Yes ☒ No

Step 4. Screening Determination Statement

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

The nature of the intended use of the sheds is for dry storage. Having regard to the landspread maps submitted and in the absence of known direct hydrological connection between the spread lands and the SAC, sufficient information has now been provided to rule out the potential for in-combination effects to occur when the existing slatted shed (exempted development) and the proposed dry shed are assessed for in-combination effects.

Conclusion: The proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives.

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS

☐ Refuse planning permission

Signature and Date of
Recommending Officer:

Ellen Carey.
Name: Ellen Carey E.P.

23/10/24

Signature and Date of the
Decision Maker:

	Deirdre Foran, B.Eng. (Civil), M.E.I., Chartered Building Engineer, Lisdoonvarna, Co Clare. dforandesign@gmail.com 087 675 0327	
	 ENGINEERS IRELAND	 

Planning Section, Clare County Council,
New Road,
Ennis.



11-10-2024

Reference: Damien Mason, R24-71, Carrowntedaun, Lahinch.

A Chara

Thank you for your request for additional information on the above application. In response, please accept the following:

1. I can confirm that the stone outbuildings to be altered to accommodate the new building pre date the Planning Act of 1963 and are therefore exempted development.
2. (a) I attach drawings of the existing slatted shed, with a floor area of 54 sqm, located > 10m from the public road, which was on the lands when Damien purchased them and falls into the criteria for exempted agricultural buildings, Type 1 Structure, not exceeding 200 sqm, within the farm yard complex.
(b) Attached maps of areas for slurry spread, twice yearly following silage cutting, and calculations of slurry from livestock on farm.
Essentially, the slatted house has two tanks, total 120 cubic metres/ 26 thousand gallons of slurry capacity, which at maximum fills to 75 % over the housing period, Late October to early March/April, from a herd of 8 beef cattle. Dept of Agriculture guidelines recommend to spread 2,000 gallons of slurry per acre, see attached spreadsheet with details for Damien.

less than or
greater than

Mise, le meas

Deirdre Foran

Land Registry Compliant Map

Liscannor Bay
Bà Lios Ceannúir



National Mapping Agency

CENTRE
COORDINATES:
ITM 506374,605573

PUBLISHED:
06/04/2022

ORDER NO.:
50260728_1

MAP SERIES:
1:5,000
1:5,000

MAP SHEETS:
4141
4142

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LEGEND:

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Map 1:5,000 Scale 1:5,000

CAPTURE RESOLUTION:
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Output scale is not a measure of data capture scale.
Further information is available in
the Data Capture Resolution



OUTPUT SCALE: 1:2,500



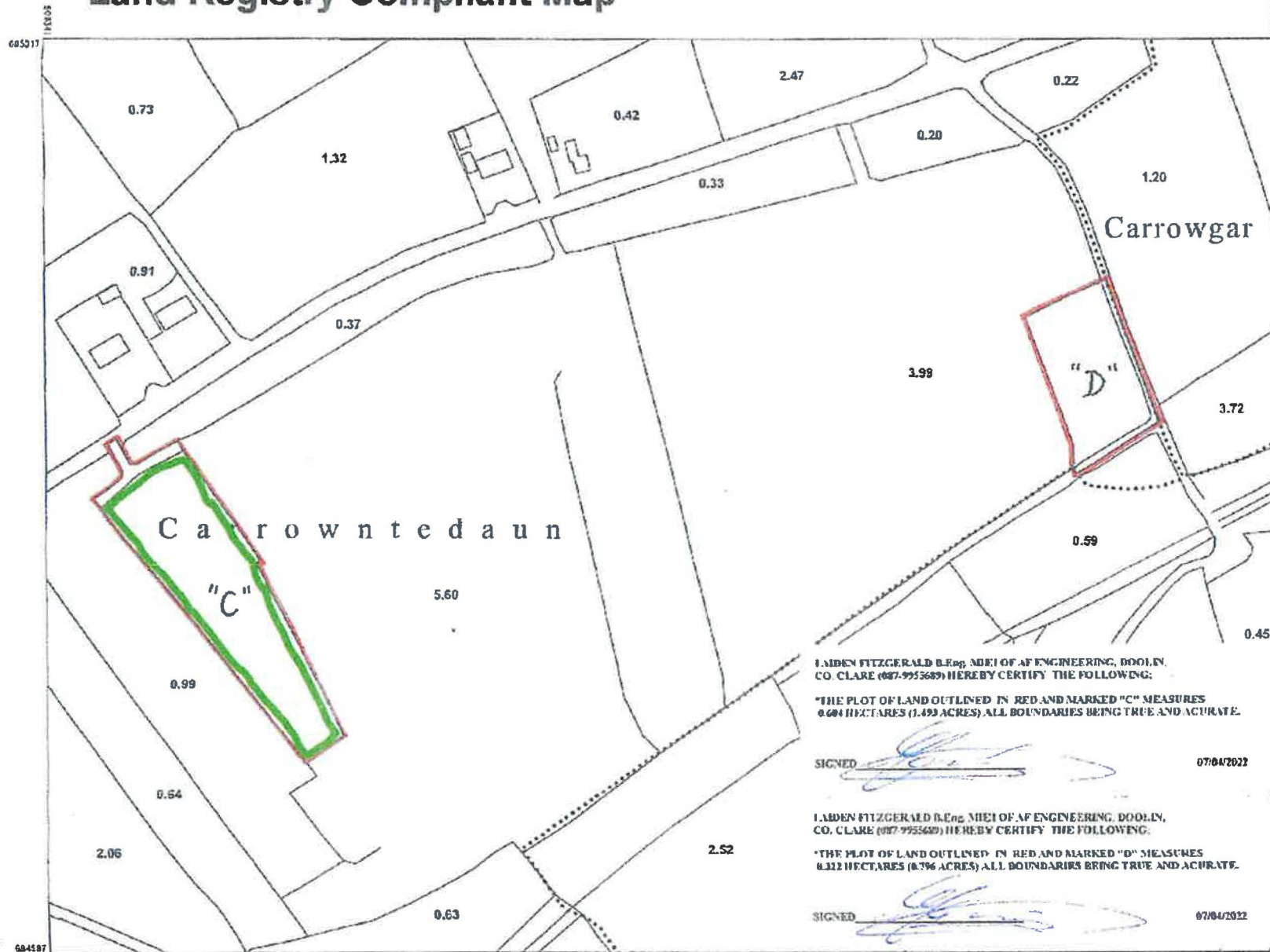
Carrowntedaun

Carrowgar

I JAMES FITZGERALD & SONS, SURVEYORS & ENGINEERS, DUBLIN
CO. CLARE (NO. 100000) HEREBY CERTIFY THE FOLLOWING:
"THE PLOT OF LAND PLANNED IN RED AND MARKED 'A' MEASURES
4.75 HECTARES (11.56 ACRES) ALL BOUNDARIES BEING TRUE AND ACCURATE."

I JAMES FITZGERALD & SONS, SURVEYORS & ENGINEERS, DUBLIN
CO. CLARE (NO. 100000) HEREBY CERTIFY THE FOLLOWING:
"THE PLOT OF LAND PLANNED IN RED AND MARKED 'B' MEASURES
2.09 HECTARES (5.16 ACRES) ALL BOUNDARIES BEING TRUE AND ACCURATE."

Land Registry Compliant Map



CENTRE COORDINATES:
ITM 508633.684802

PUBLISHED: 06/04/2022
ORDER NO.: 50260728_2

MAP SERIES: 1:5,000
MAP SHEETS: 4142

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LEGEND:

I, AIDEN FITZGERALD (Eng. MBEI OF AF ENGINEERING, DUBLIN,
CO. CLARE (087-9953689) HEREBY CERTIFY THE FOLLOWING:

"THE PLOT OF LAND OUTLINED IN RED AND MARKED "C" MEASURES
0.604 HECTARES (1.493 ACRES) ALL BOUNDARIES BEING TRUE AND ACCURATE.

SIGNED

07/04/2022

I, AIDEN FITZGERALD (Eng. MBEI OF AF ENGINEERING, DUBLIN,
CO. CLARE (087-9953689) HEREBY CERTIFY THE FOLLOWING:

"THE PLOT OF LAND OUTLINED IN RED AND MARKED "D" MEASURES
0.312 HECTARES (0.776 ACRES) ALL BOUNDARIES BEING TRUE AND ACCURATE.

SIGNED

07/04/2022

CAPTURE RESOLUTION:

The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
<http://www.osi.ie/search/CaptureResolution>

OUTPUT SCALE: 1:2,500

Slatted Shed

	Length	Dept	Width	Volume	Gallons	Conv Facto
Feet	44	8	12	4,224		3.281
Metres	13.4	2.4	3.7	120	26,310	220

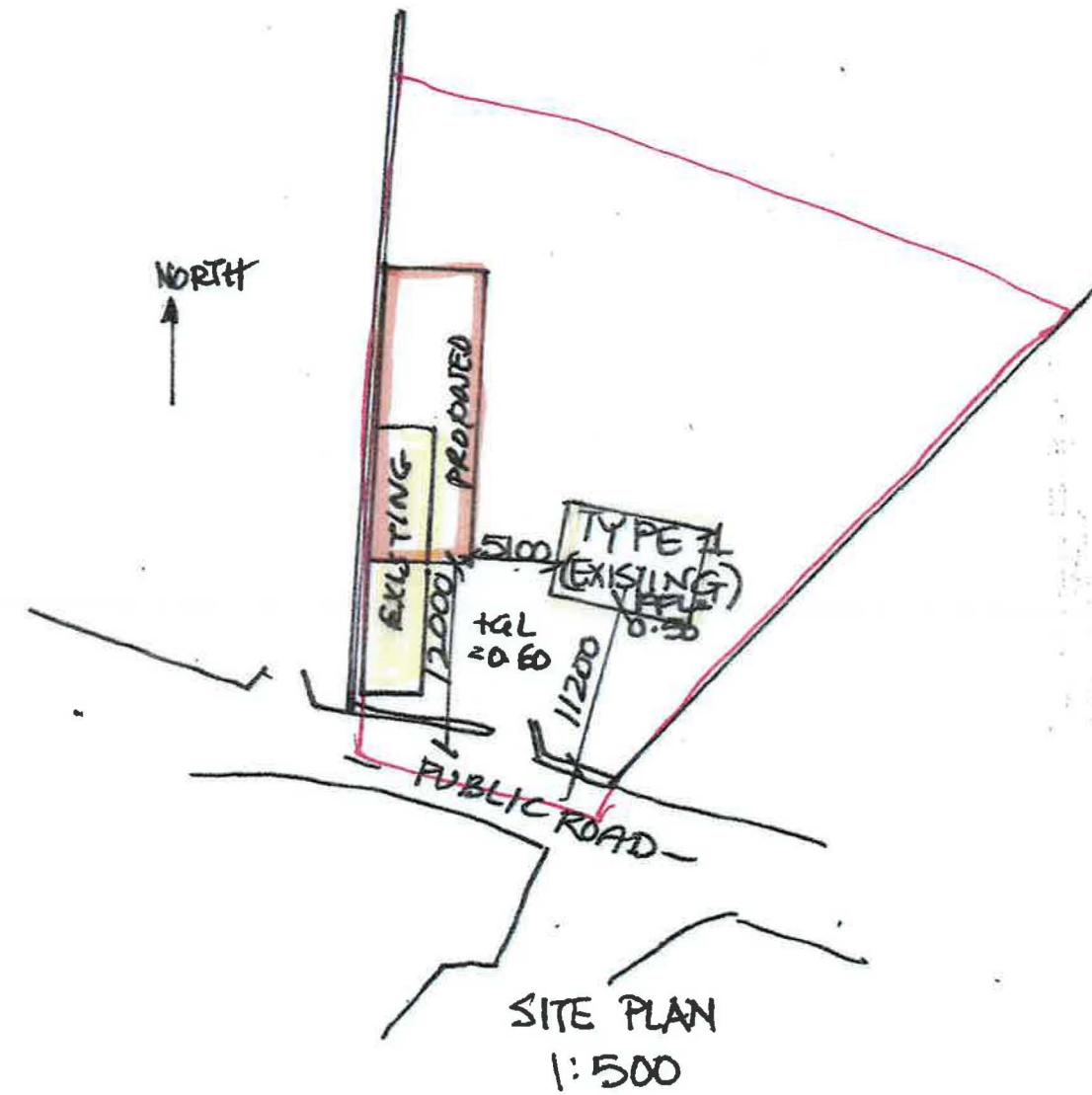
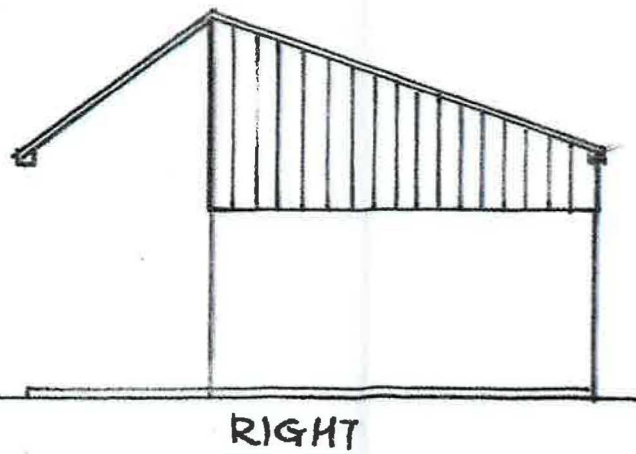
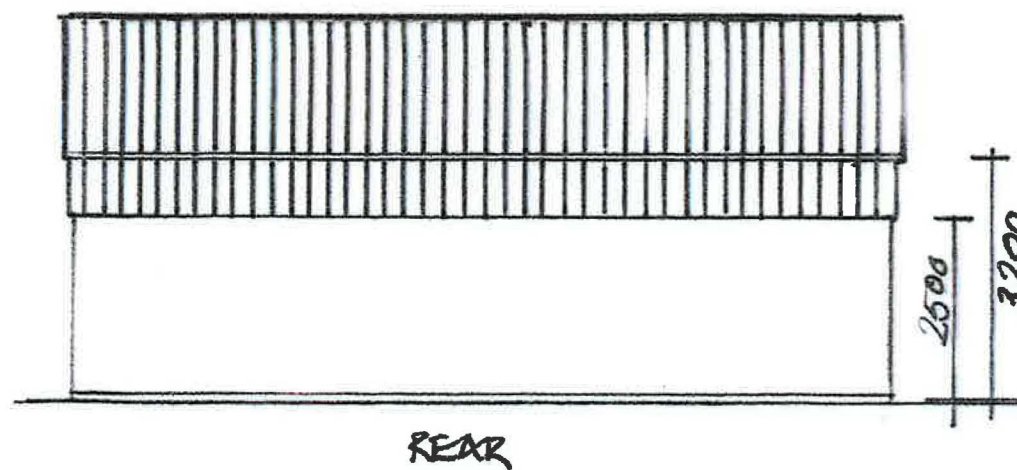
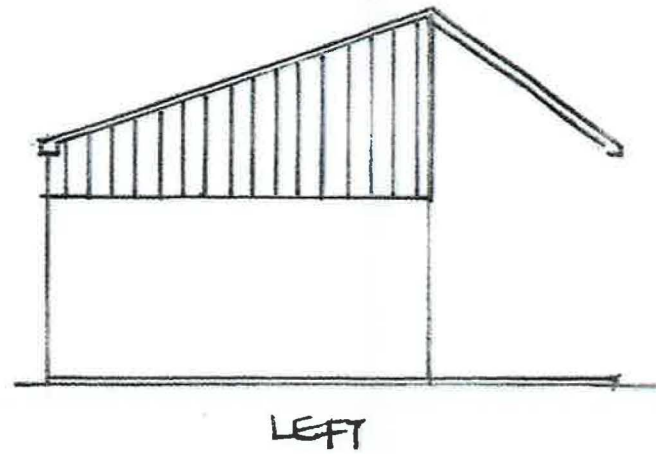
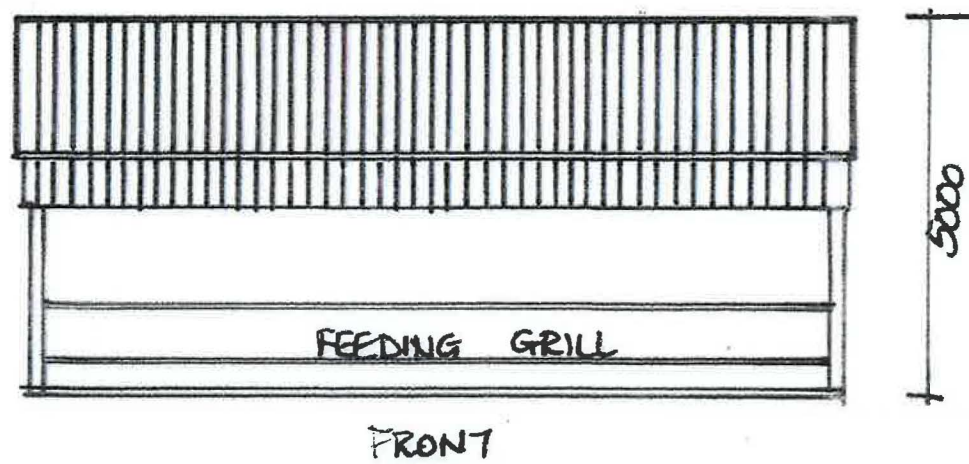
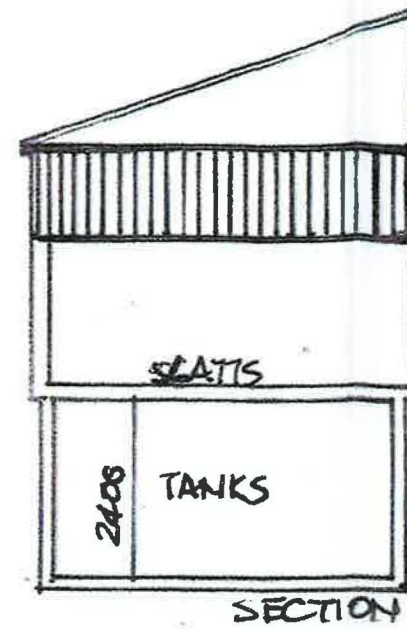
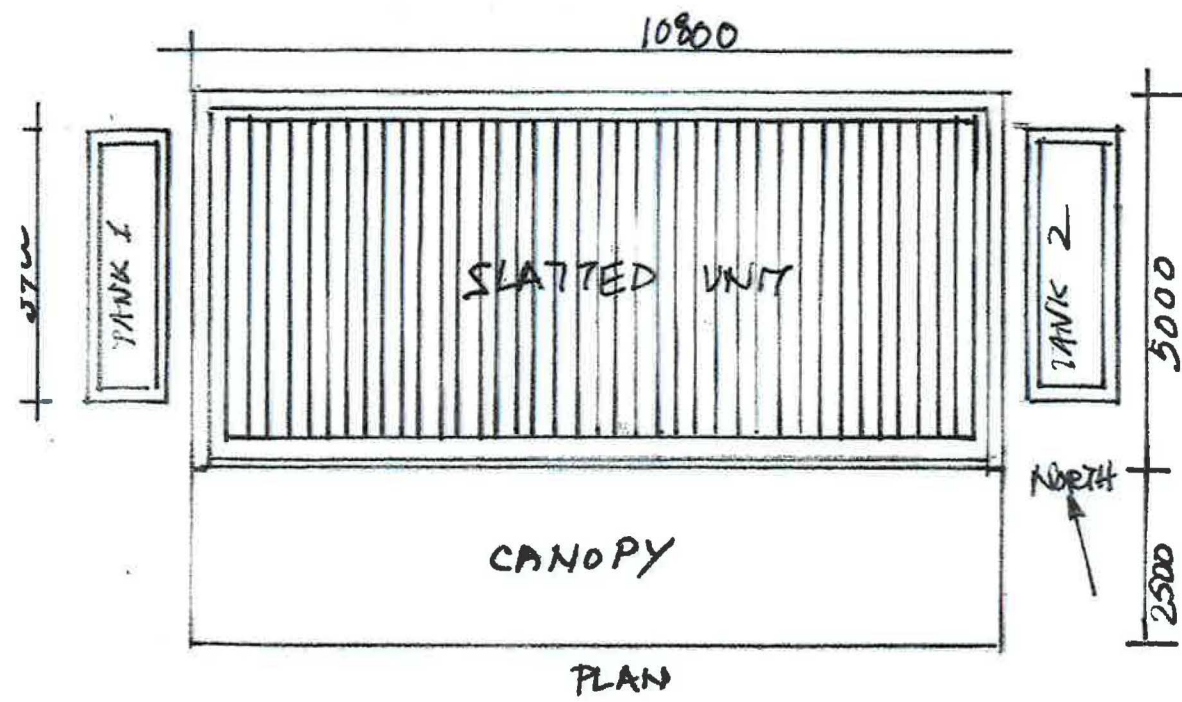
Application Area

Acres
6.0 A & B
1.5 C & D
<u>7.5 Total</u>

Application Rate

2,000 gallons per acre

15,000 First Cut Silage
11,310 Second Cut Silage
0 Third Cut Silage
<u>26,310 Total</u>



EXISTING SLATTED HOUSE
 SCALE: 1/100
 DAMIEN MASON
 CARRINGTON, LATHING.



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Damien Mason
C/o Deirdre Foran
Lisdoonvarna
Co. Clare

07/10/2024

Section 5 referral Reference R24-71 – Damien Mason

Is the partial demolition of the existing sheds and the building of new hayshed and machinery shed/repair workshop on the farmyard complex development and if so, is it exempted development?

A Chara,

I refer to your application received on 11th September 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

1. Please be advised that Article 9 of the Planning and Development Regulations 2001, (as amended) outlines restrictions on exempted development. In this instance under Article 9 (viii) developments which 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 cannot be considered to constitute exempted development. It appears from the details received that the proposed development may comprise works to an unauthorised structure as the planning status of the existing sheds to be partially demolished and extended is not clear. The sheds on the western side of the site appear to comprise a mixture of stone wall and concrete block, the planning status of which is not recorded. Please submit details to demonstrate the planning status of these buildings that it is proposed to partially demolish, alter and extend.

2. (a) Similarly please be advised that it was noted on inspection that there is an existing slatted unit on site, which does not appear to have the benefit of planning permission. Please indicate the planning status of same.

(b) Under Article 9 (vii) (b) of the aforementioned Regulations the proposal cannot be considered exempted development if it would comprise a development that requires an Appropriate Assessment (Habitat Directive) because it would be likely to have a significant effect on the integrity of a European site in particular the Inagh River estuary SAC. In respect of the development referred to at 2 (a) above please submit scaled drawings of same, number of livestock housed, period of housing and volume of effluent produced together with a Dept of Agriculture land holding map for the area of land owned, leased or rented by the applicant clearly marking the area suitable for land spreading of effluent.

An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach

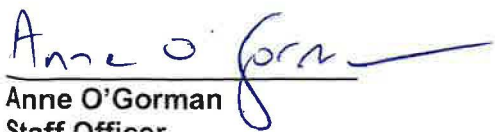
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate

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



Mise, le meas



Anne O'Gorman

Staff Officer

Planning Department

Economic Development Directorate

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: R 24/ 71 Damien Mason

APPLICANT(S):

REFERENCE: Whether the partial demolition of the existing sheds and the building of new hayshed and machinery/ repair workshop on the farmyard complex at Barratra Lahinch constitute development and if so, is it exempted development.

LOCATION: Barratra Lahinch, Co. Clare

DUE DATE: 08/10/ 24

Site Description.

The existing shed to be extended is located within a farm yard complex adjacent to a slatted unit, the planning status of which is not recorded. The subject sheds are built into the western and southern boundary of the site. There is a hay trough in the enclosed yard space in front of the sheds.

It was also noted that the front boundary which previously comprised a stone wall in 2019 has been removed and replaced by a timber post and rail splayed entrance.

The site is located west of Barratra cluster and is located within a designated Heritage landscape.

It was noted on inspection that the section of the shed closest to the road was last use for housing of livestock but this use has ceased.

Google image from 2019 shows the sheds being used to house livestock.

The remaining shed are used for storage of farm equipment.

Having regard to the forgoing I am concluding that the use of the sheds for the type of storage observed on inspection falls under the scope of class 9, notwithstanding past use for the housing of calves.

Planning History on site

None

Section 5 History on site

R24/1 The query received asked whether the extension and alteration of the existing sheds being built on the farm lands at Barratra was development and if so was it exempted development. The planning Authority determined:

- a) The structure would not meet the exempted development requirements of Class 9 of Part 1, Schedule 2 of the Planning & Development Regulations 2001, as amended (i.e. development within the curtilage of a house), including the conditions and limitations

therein, particularly limitation no. 3 which states 'no such structure shall be situated within 10 metres of any public road'.

- b) The provisions of Article 9 (xiii) of the Planning and Development Regulation 2001, as amended, outlines restrictions on exempted development at class 3 which consists of or comprises the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use, cannot be considered exempted development. In this instance the planning status of the existing sheds and of the existing slated shed on site is not clear.

Details submitted with the application

- Letters of consent from occupiers/ owners of 4 households falling within 100m of the subject site confirming they have no objection to the proposed sheds.
- Site location map scale 1:1000 with the site outlined in red.
- Completed application form.
- Land holding folio map outlined in blue and rights of way in yellow showing the subject site outlined in red and the dwellings of various named families within 100m radius .
- Site layout plan scale 1 : 500 showing the existing shed in blue and the proposed extension in orange.
- Drawings of the proposed shed 20m long, 7m deep and 5. m high. (hay shed 14.45 by 6.5 = 93.92sq.m. and the machinery/ workshop shed is 31.2 sq.m. Total internal floor area is 125.12.
- The floor area of the original shed remaining after demolition is 31. 45 sq.m. (dry shed)

Background to Referral

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

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

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the

application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

'Development' are defined in Section 3 of the *Planning and Development Act 2000*, as amended as follows:

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

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

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

Part 3 Exempted Development Rural- Article 6

Class 9

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

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

Conditions and Limitations

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

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

Class 50 - Schedule 2 Article 6 Part 1- Exempted Development General.

The demolition of a building, or buildings, within the curtilage of— (i) a house, (ii) an industrial building, (iii) a business premises, or (iv) a farmyard complex.

- 1.No such building or buildings shall abut on another building in separate ownership.
2. The cumulative floor area of any such building, or buildings, shall not exceed:
 - (a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and
 - (b) in all other cases, 100 square metres.
3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act. (applications for screening for EIA)

Schedule 2, Article 6, Part 1 – Exempted Development General.

Under Article 9 (1) of the same Regulations, *development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

(a) if the carrying out of such development would –

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
- (ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,*
- (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*
- (vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan, (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.”

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the partial demolition of the existing sheds and the building of new hay sheds and machinery shed/ repair workshop on the farm yard complex constitute development and if so is it exempted development .

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

Class 9

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

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

The shed is for the storage of farm equipment and feed and is not for the housing of animals and as such falls under class 9.

Conditions and Limitations

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

This is the case having regard to the information on file and site inspection.

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

There is no other storage shed of this class on the farmyard complex.

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

The proposed new structure is 12m distance set back from the public road and as such complies with this condition/ limitation.

4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
The maximum height is 5.0 m to the ridge and as such complies with this condition/ limitation.

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

I note letters from residents living within 100 radius the shed giving their consent to the proposal.

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

External finishes are not specified in the drawings received.

In respect of the demolition of the existing sheds the following class is relevant.

Class 50 - Schedule 2 Article 6 Part 1- Exempted Development General.

The demolition of a building, or buildings, within the curtilage of— (i) a house, (ii) an industrial building, (iii) a business premises, or (iv) a farmyard complex.

1.No such building or buildings shall abut on another building in separate ownership.

The sheds to be demolished are constructed in such a manner that the western wall of the site (party boundary) forms the wall of the shed. I note in this regard that Flanagan's (household 1) have consented to the proposed development .

2. The cumulative floor area of any such building, or buildings, shall not exceed:
(a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and (b) in all other cases, 100 square metres.

The floor area of the building to be demolished is approximately 36 sq.m.

3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act. (applications for screening for EIA)

Article 9 of the Planning and Development Regulations 2001, as amended

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

- (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

N/A- No planning history

- (ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

No alterations to the existing access point are proposed.

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

N/A.

(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,

N/A.

- (iv) *interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

The site is within designated Heritage landscape. However there are a number of dwellings and farm buildings in the vicinity and in this context adverse impact on the visual amenity of the area does not arise.

- (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,*

N/A This is not applicable in this instance.

- (vi) *consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

N/A This is not applicable in this instance.

(vii)

- a. *consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

N/A This is not applicable in this instance .

- b. *comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

Unknown

- c. *consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."*

This is not applicable in this instance as the subject site is not located in a NHA or p NHA.

- (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,*

The planning status of the original sheds on site which are located along and form part of the western boundary is not clear. (side facing Flanagan's household 1) While the stone wall section of the shed may be a pre 63 structure, it was noted that this wall has been altered and raised with concrete blocks. It is not clear when this work was carried out or its status. The proposed development constitutes partial demolition of these sheds and the placing of the new extension on the northern side of the remaining shed. Having regard to the foregoing the development as proposed may constitutes works to an unauthorised structure. Further information will be requested in this regard.

The planning status of the slatted shed on site (within the red lines) is not clear. There is no record of planning permission having been granted for the slated shed. No details have been submitted regarding the existing slated shed so it is not possible to clarify with certainty that it is exempted development . In any event the proposed development does not constitute an extension, alteration, repair or renewal of the existing slatted unit.

- (ix) *consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

This is not applicable in this instance.

- (x) *consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

This is not applicable in this instance.

- (xi) *obstruct any public right of way,*

This is not applicable in this instance.

- (xii) *further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.*

This is not applicable in this instance.

Conclusion

Having regard to the above it is not clear that the proposed development can be considered exempted development and further information will be requested in this regard.

Recommendation

The following questions have been referred to the Planning Authority:


Whether the partial demolition of the existing sheds and the building of new hay sheds and machinery shed/ repair workshop on the farm yard complex constitute development and if so is it exempted development . To enable the Planning Authority to further assess this Section 5 query please arrange to address the following:

1. Please be advised that Article 9 of the Planning and Development Regulations 2001 ,(as amended) outlines restrictions on exempted development. In this instance under Article 9 (viii) developments which 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 cannot be considered to constitute exempted development. It appears from the details received that the proposed development may comprise works to an unauthorised structure as the planning status of the existing sheds to be partially demolished and extended is not clear. The sheds on the western side of the site appear to comprise a mixture of stone wall and concrete block , the planning status of which is not recorded. Please submit details to demonstrate the planning status of these buildings that it is proposed to partially demolish, alter and extend.

2. (a) Similarly please be advised that it was noted on inspection that there is an existing slatted unit on site, which does not appear to have the benefit of planning permission. Please indicate the planning status of same.

b. Under Article 9 (vii) (b) of the aforementioned Regulations the proposal cannot be considered exempted development if it would comprise a development that requires an Appropriate Assessment (Habitat Directive) because it would be likely to have a significant effect on the integrity of a European site in particular the Inagh River estuary SAC. In respect of the development referred to at 2 (a) above please submit scaled drawings of same, number of livestock housed, period of housing and volume of effluent produced together with a Dept of Agriculture land holding map for the area of land owned, leased or rented by the applicant clearly marking the area suitable for land spreading of effluent .

Ellen Carey
Executive Planner
Date:


Helen Quinn
Senior Planner
Date: 04-10-2004.

Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	Section 5 R24/ 71
(b) Brief description of the project or plan:	Agricultural storage shed
(c) Brief description of site characteristics:	Extension and alterations to dry sheds
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Inagh River estuary SAC	Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]	2.45km as the crow flies	None	No

	Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]			

- ¹ Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.
- ² If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects	
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:	
Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <ul style="list-style-type: none"> Vegetation clearance Demolition Surface water runoff from soil excavation/infill/landscaping (including borrow pits) 	none

<ul style="list-style-type: none"> • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	Unknown
In-combination/Other	Unknown- No details above been submitted to clarify where effluent associated with the existing slatted unit on site is spread.

(b) Describe any likely changes to the European site:	
<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation 	none

status value (water or air quality etc.)

- Changes to areas of sensitivity or threats to QI
- Interference with the key relationships that define the structure or ecological function of the site

(c) Are '*mitigation*' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

☐ Yes ☒ No

Step 4. Screening Determination Statement


The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

Notwithstanding the separation distance between the subject site and the SAC, the nature of the intended use of the sheds being dry storage and the lack of known direct hydrological connection between the subject site and the SAC, there is insufficient information on file to rule out the potential for in-combination effects to occur when the existing slatted shed and associated spread lands are considered.

Conclusion: Further information will be requested.

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.

(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	03/10/24	<div data-bbox="805 629 1385 763" style="border: 1px solid black; padding: 5px; text-align: center;">  Name: Ellen Carey E.P. </div>
Signature and Date of the Decision Maker:		



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Damien Mason
C/o Deirdre Foran
Lisdoonvarna
Co. Clare

11/09/2024

Section 5 referral Reference R24-71 – Damien Mason

Is the partial demolition of the existing sheds and the building of new hayshed and machinery shed/repair workshop on the farmyard complex development and if so, is it exempted development?

A Chara,

I refer to your application received on 11th September 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

Mise, le meas

Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach

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

Planning Department
Economic Development Directorate

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



P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

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

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



R24-71

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))**

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1. CORRESPONDENCE DETAILS.	
(a) Name and Address of person seeking the declaration	<p>DAMIEN MASON</p> <p>BARRTRA</p> <p>LAHINCH,</p> <p>CO CLARE</p>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<p>DEIRDRE FORAN</p> <p>LISDOONVARNA</p> <p>CO CLARE</p>



2. DETAILS REGARDING DECLARATION BEING SOUGHT

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

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

IS THE PARTIAL DEMOLITION OF THE EXISTING SHEDS AND THE BUILDING OF
NEW HAYSHED AND MACHINERY SHED/REPAIR WORKSHOP ON THE FARM
YARD COMPLEX DEVELOPMENT AND IF SO IS IT EXEMPTED DEVELOPMENT

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

PARTIALLY DEMOLISHING THE EXISTING SHEDS AND BUILDING NEW SHEDS TO
PROVIDE STORAGE OF HAY AND MACHINERY.

OWNERS OF DWELLINGS WITHIN 100M HAVE GIVEN LETTERS TO SHOW NO
OBJECTION TO THE PROPOSED SHEDS.

- (c) List of plans, drawings etc. submitted with this request for a declaration:
(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

SHED DRAWINGS; SITE LOCATION MAP; LANDHOLDINGS MAP; SITE LAYOUT PLAN

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	(BARRTRA) CARROWNTEDAUN, LAHINCH, CO CLARE
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	NO _____ _____ _____
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	DAMIEN MASON OWNS THE LANDS WITHIN FOLIO FILE PLAN CE4802F TOTAL= 12HA
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	_____ _____ _____
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	YES
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	NO
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	NO
(h) Date on which 'works' in question were completed/are likely to take place:	SHED TO BE BUILT IN WINTER 2024

SIGNED:



AGENT

DATE: 09-09-2024

GUIDANCE NOTES

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

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

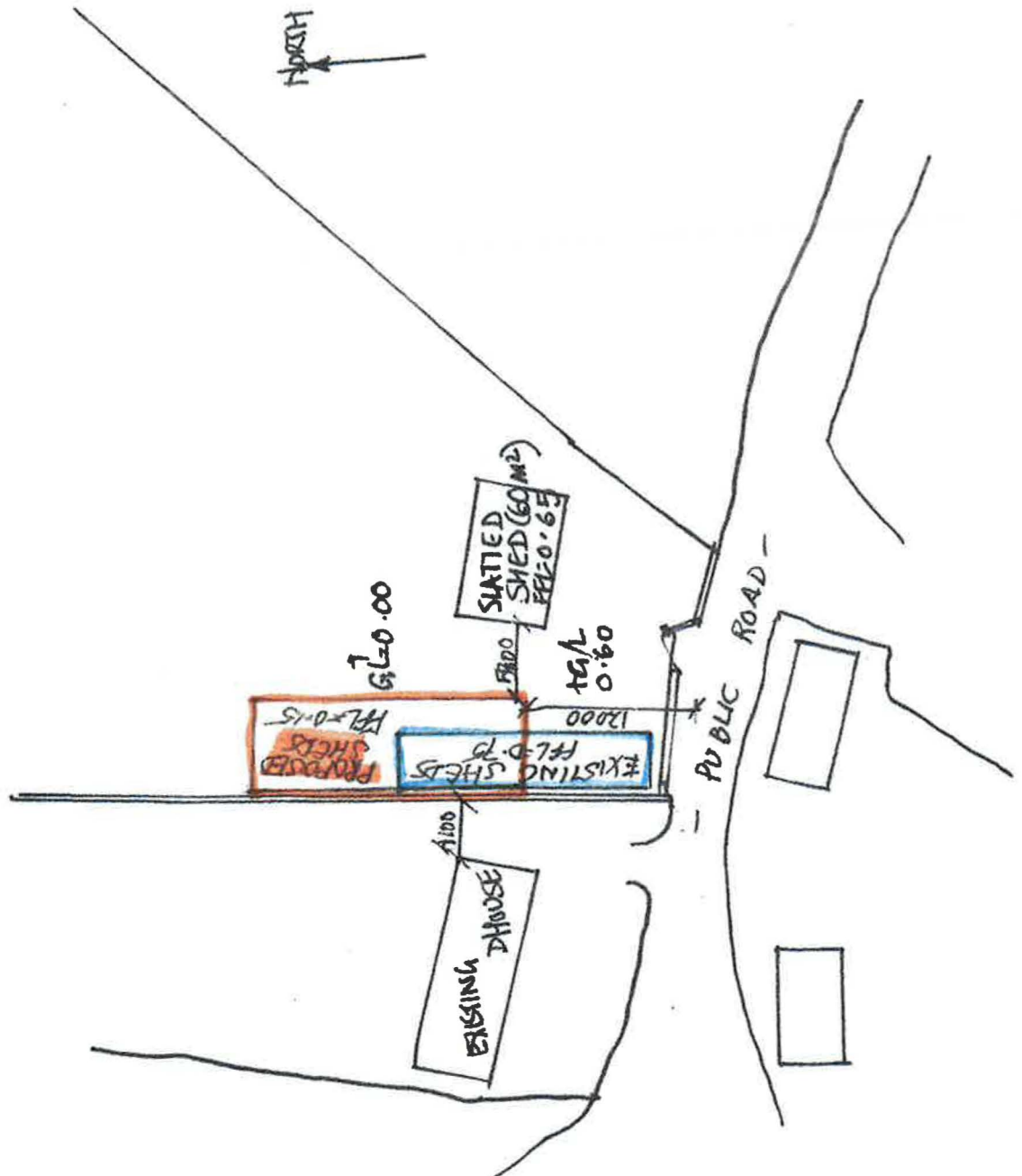
Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

Date Received:	Fee Paid:
Date Acknowledged:	Reference No.:
Date Declaration made:	CEO No.:
Decision:.....			

D. FÖRAN B. FK.
087 645 0327



To: Planning Section

Clare County Council

Ennis

Co Clare

Dear Planning,

My neighbours Damien and Elizabeth Mason are replacing the existing outbuildings with a new shed for storing Hay and Farm Machinery and are applying for an exempted development certificate for it. As my house is within 100m of the proposed location, I wish to confirm that I have no objection to them building the sheds.

Thank you.

Signed:

John Leyden Elizabeth Leyden

Print Name:

JOHN LEYDEN Elizabeth Leyden

Date:

15 / 7 / 2024

To: Planning Section

Clare County Council

Ennis

Co Clare

Dear Planning,

My neighbours Damien and Elizabeth Mason are replacing the existing outbuildings with a new shed for storing Hay and Farm Machinery and are applying for an exempted development certificate for it. As my house is within 100m of the proposed location, I wish to confirm that I have no objection to them building the sheds.

Thank you.

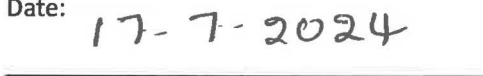
Signed:

A handwritten signature in dark ink, appearing to read 'Bernard J. Lynch', written over a horizontal line.

Print Name:

The name 'BERNARD J. LYNCH' written in a stylized, handwritten uppercase font, positioned above a horizontal line.

Date:

The date '17-7-2024' written in a handwritten style, positioned above a horizontal line.

To: Planning Section

Clare County Council

Ennis


Co Clare

Dear Planning,

My neighbours Damien and Elizabeth Mason are replacing the existing outbuildings with a new shed for storing Hay and Farm Machinery and are applying for an exempted development certificate for it. As my house is within 100m of the proposed location, I wish to confirm that I have no objection to them building the sheds.

Thank you.

Signed:

Maureen Comber 

Print Name:

MAUREEN COMBER ANTHONY EDWARDS

Date:

14/07/2024

To: Planning Section

Clare County Council

Ennis

Co Clare

Dear Planning,

My neighbours Damien and Elizabeth Mason are replacing the existing outbuildings with a new shed for storing Hay and Farm Machinery and are applying for an exempted development certificate for it. As my house is within 100m of the proposed location, I wish to confirm that I have no objection to them building the sheds.

Thank you.

Signed:

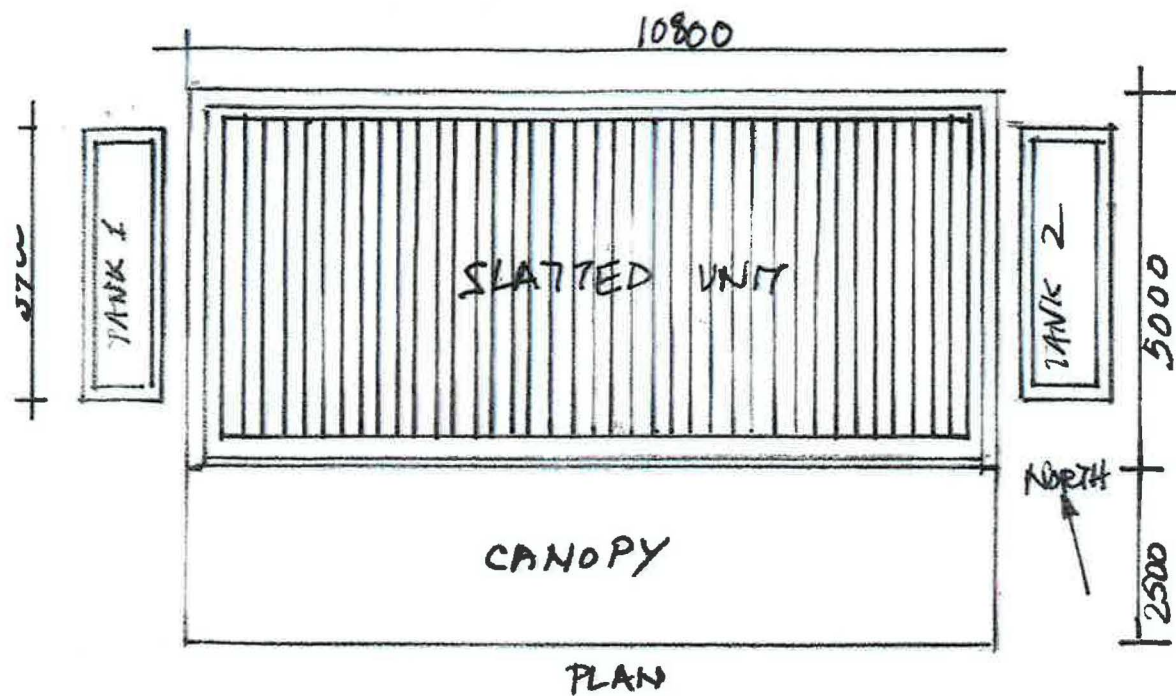
James Flanagan, Peggy Flanagan

Print Name:

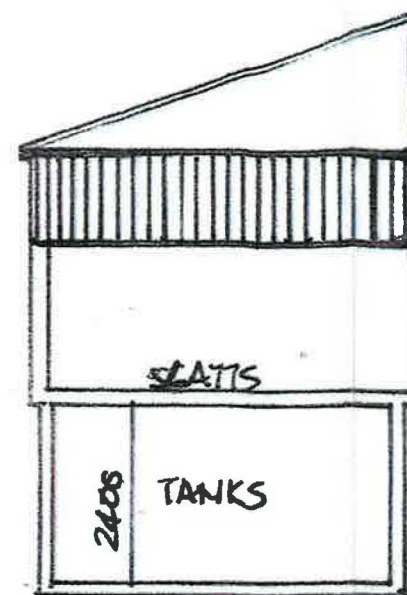
JAMES FLANAGAN PEGGY FLANAGAN

Date:

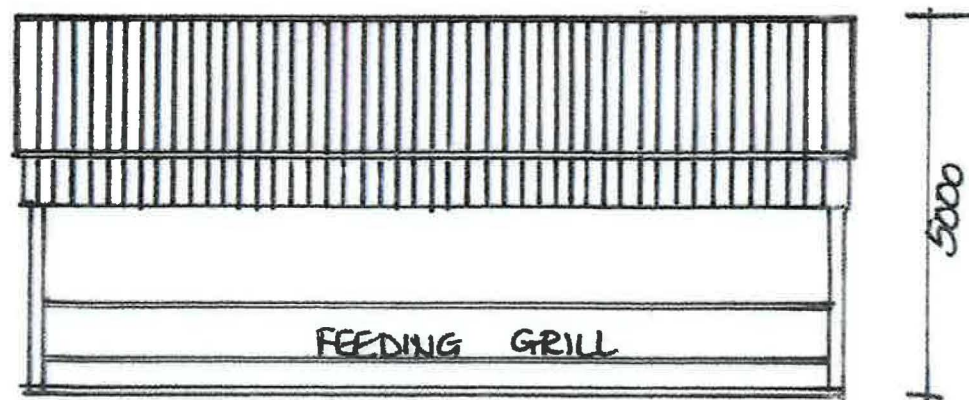
14/07/2024



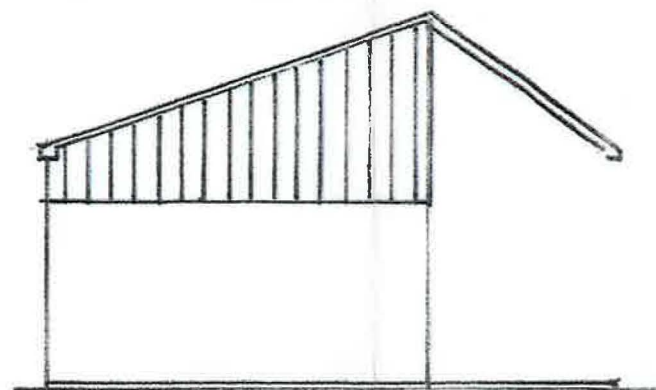
PLAN



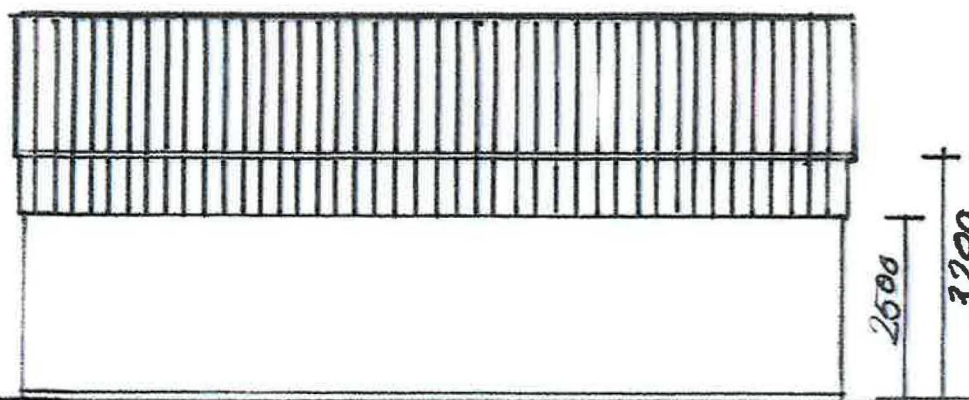
SECTION



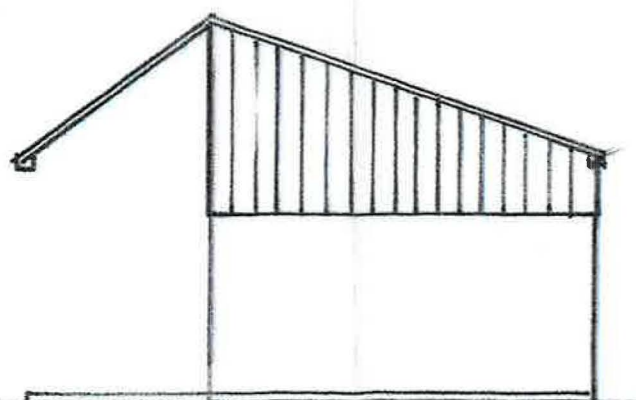
FRONT



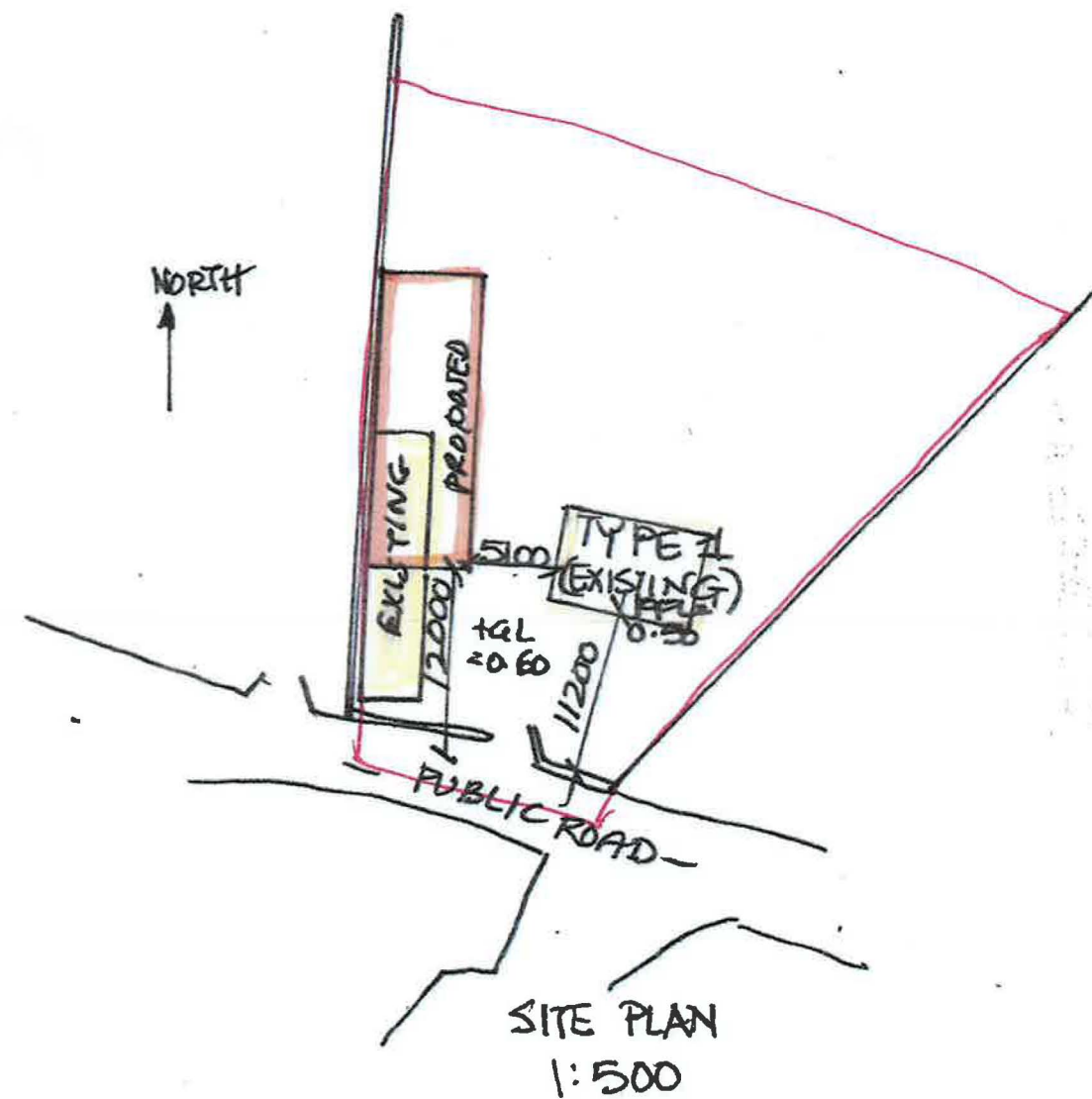
LEFT



REAR



RIGHT



EXISTING SLATTED HOUSE

SCALE: 1/100

DAMIEN MASON
CARRINGTON, LATHINCH.



**Tailte
Éireann**

Clárúchán, Luacháil,
Suirbhéireacht
Registration, Valuation,
Surveying

Official Tailte Éireann Registration Map

This map should be read in conjunction with the folio.

Tailte Éireann (TÉ) Registration mapping is based on TÉ Surveying mapping. Where TÉ Registration maps are printed at a scale that is larger than the TÉ Surveying scale, accuracy is limited to that of the TÉ Surveying map scale.

For details of the terms of use and limitations of scale, accuracy and other conditions relating to TÉ Registration maps, see www.tailte.ie.

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(centre-line of parcel(s) edged)

-  **Freehold**
-  **Leasehold**
-  **SubLeasehold**
-  **'S' Register**

(see Section 8(b)(II) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

Burdens (may not all be represented on map)

-  **Right of Way / Wayleave**
-  **Turbary**
-  **Pipeline**
-  **Well**
-  **Pump**
-  **Septic Tank**
-  **Soak Pit**

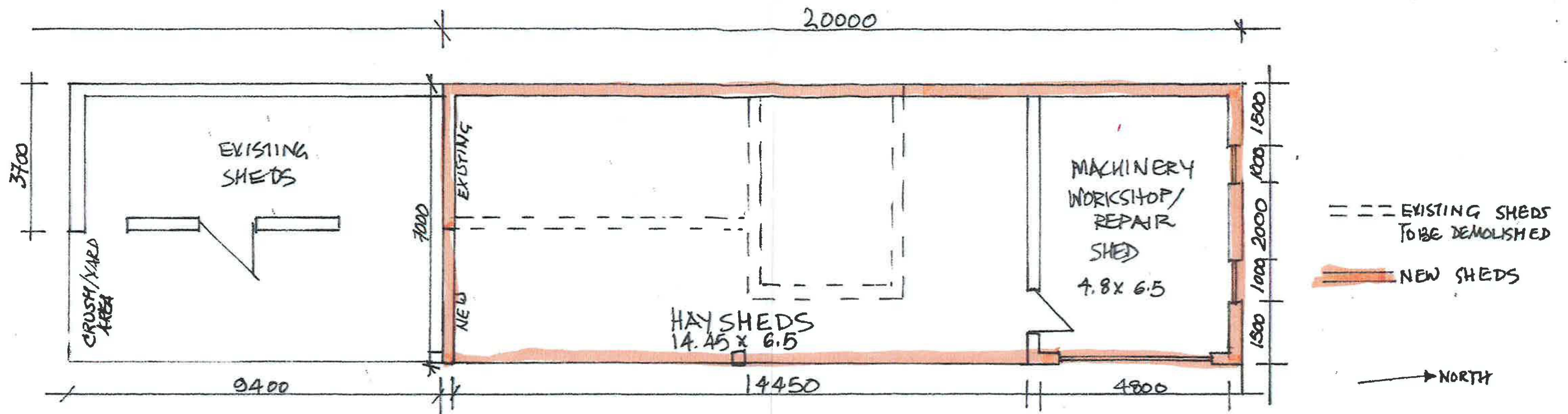
A full list of burdens and their symbology can be found at: www.landdirect.ie

Tailte Éireann Registration operates a non-conclusive boundary system. The TÉ Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a TÉ Registration map is conclusive as to the boundaries or extent.

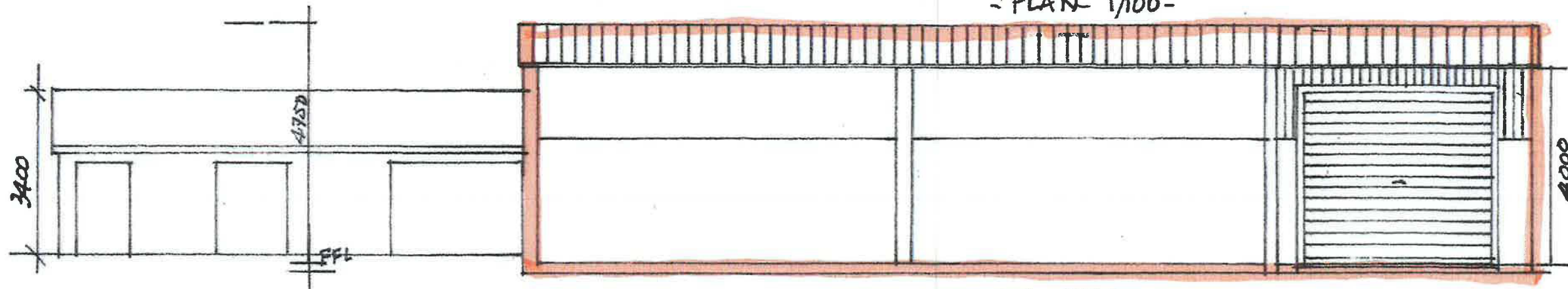
(see Section 85 of the Registration of Title Act, 1964). As Inserted by Section 62 of the Registration of Deed and Title Act 2006.

FOLIO CE 4802F
ELIZABETH & DAMIEN MASON

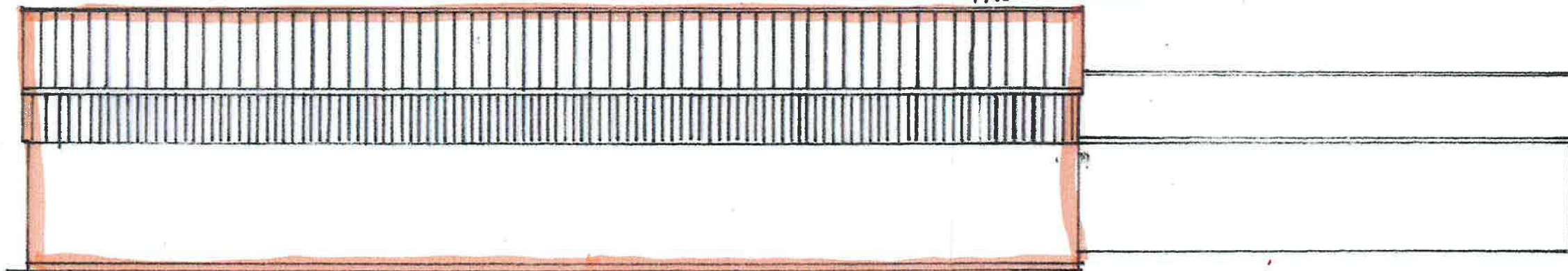




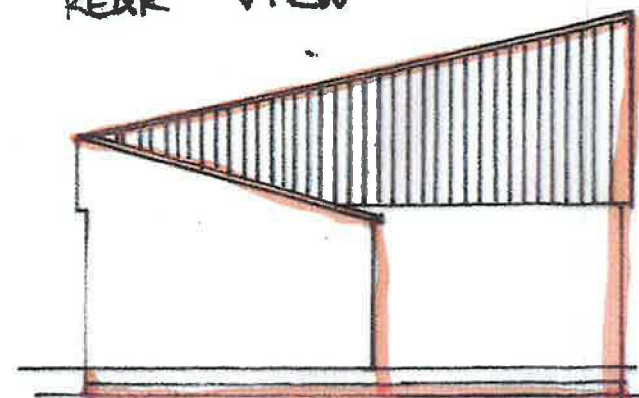
- PLAN 1/100 -



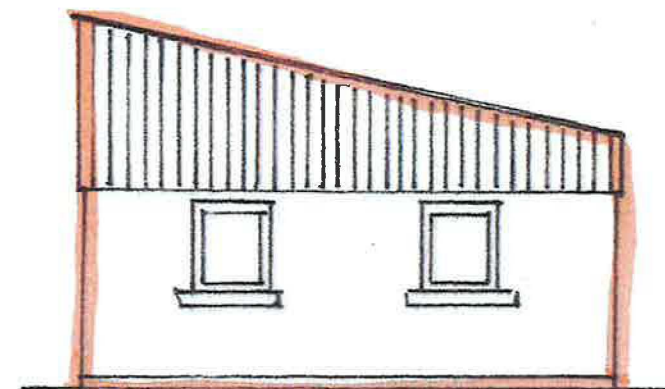
- FRONT VIEW -



REAR VIEW



- LEFT VIEW -



- RIGHT VIEW -

PLANS & VIEWS
DAMIEN MASON
CARROWNTEDAUN
LAHINGH
1/100 AUG 26 2024
D. FORAN B.Eng.
087 675 0327

1.5
2.0
2.0
1.5
2.0

Land Registry Compliant Map



Tailte
Éireann

**CENTRE
COORDINATES:**
ITM 508636,685444

PUBLISHED:
18/12/2023

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50374393_1

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4142

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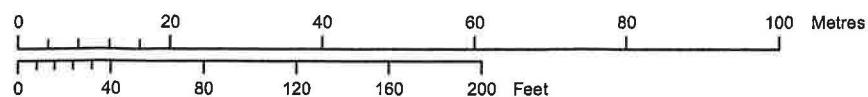
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ownership of physical features.

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SITE LOCATION MAP
DAMIEN MASON
CARROWNTEDAUN
LAHINCH
1/1000 09.09.2024
DORAN BEN.



OUTPUT SCALE: 1:1,000

CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
www.tailte.ie; search 'Capture Resolution'

LEGEND:
To view the legend visit
www.tailte.ie and search for
'Large Scale Legend'

