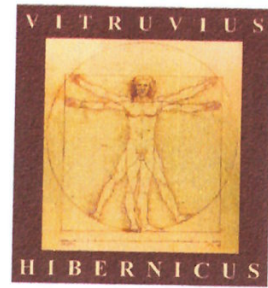


LIAM MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC. TECH.
ENVIRONMENTAL SCIENTIST PLANNING CONSULTANT LEGAL ADVISOR S.I. 8/2017 SCH. 5
CONVENT ROAD, LONGFORD N39 EE72

EU REGISTERED ARCHITECT NETHERLANDS REG. NO. 1.180615.001
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND.

UK REGISTERED ARCHITECT REG. NO. 046170I
10/2 354 MEADOWSIDE QUAY WALK, GLASGOW G11 6EE



An Coimisiún Pleanála,
An Bord Pleanála,
64 Marlborough Street,
DUBLIN 1
D01 V902

P.A. ref : Clare County Council R25-81
Referrer : Declan McCormack.

11 Nov. 2025

AN COIMISIÚN PLEANÁLA	
LDG-	084271-25
ACP-	
14 NOV 2025	
Fee: €	220
Type:	14
Time:	9:15
By:	Boon

Dear Sir/Madam,

this is a referral by my client Declan McCormack, Creggaunahilla, Clarecastle, Ennis Co.
Clare V95 R8R9 of the Section 5 declaration made by Clare County Council on 22 Oct. 2025.

Attached are :

- (i) referral fee €220,
- (ii) Section 5 request papers, drawings etc.
- (iii) declaration R25-81 made by P.A.

Set out below are my client's supporting arguments.

The question being referred is whether the erection of a 282.96 sq.m. agricultural shed is or is not exempted development.

1.

The lands are shown on the registry map attached.

The site is part of a larger family owned land holding of c. 50 acres.

The lands are in agricultural use for time immemorial as are the family farmlands.

2.

The structure comprises 282.96 sq.m.

I submit that the structure complies entirely with the all Conditions and Limitations attaching to Schedule 2 Part 3 Exempted Development – Rural Class 9 Agricultural Structures Class 9.

Clare County Council contests compliance with Condition/Limitation 5.

When commenced, only two inhabited houses were within 100m of the structure.

The written consents of both house owners/occupiers were procured.

The inhabited dwellings are marked A and B on the attached mapping.

3.

In Rosslevan Td. to the immediate north of my client's site, there is a housing estate. Extension(s) to the estate were/was granted planning permission under 20/158 and ABP ref. 309568. Further permissions issued ref. 23/507 and 23/583.

The most recently permitted houses were incomplete and unoccupied when my client began his development. I attach Google Map 2025 aerial photo, a Geohive aerial photo, a Planning locator map with P.A. refs. which are self-explanatory.

Clare County Council in its conclusion (c) is factually incorrect.

4.

Conclusion (d) is also incorrect.

In Clare County Council's own Appropriate Assessment in 23/507 and 23/583 (attached) specific reference is made to An Bord Pleanála's 309568 in 20/153 :

"... the absence of proximity or connectivity to a European Site no Appropriate Assessment issues arise and I do not consider that the proposed development (design alterations) would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site."

An Bord Pleanála in relation to the likelihood of adverse effects on the SAC concluded :
"... there is no reasonable scientific doubt as to the absence of such effects."

The site in the above directly abuts the Gaurus watercourse as does my client's lands.
What's good for the goose is good for the gander.

5.

There is a further weighty legal consideration.

AA Screening or an NIS deals only with *"reasonable scientific doubt"*.

This arises from the CJEU case 258/11 Peter Sweetman v. An Bord Pleanála.

"So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubts as to the effects of the works proposed on the protected site concerned."

What is ordinarily Exempted Development under Article 6 of the Planning and Development Regulations can be de-exempted if it falls foul of any of the provisions of Article 9.

Clare Council relies on Article 9.(1) (viiB) :

The development shall not be exempted...

*"... [if] the development would require an appropriate assessment because it **would** be likely to have a significant effect on the integrity of a European site."*

Exemption can be de-exempted if it is **likely to have a significant effect** on the SAC.
But that's not what Clare Council said.

It said :

".. [the site] is adjacent to an existing watercourse with direct connectivity to the Lower River Shannon SAC [and] it cannot be concluded beyond a reasonable scientific doubt that would be no likely significant effects on a European site without the use of mitigation measures."

"it cannot be concluded beyond a reasonable scientific doubt that would be no likely significant effects" is NOT the same as **likely to have a significant effect**.

Legally a 'likely significant effect' is a much higher crossbar than mere doubt.
There has been no finding or conclusion of a likely significant effect.
In the absence of such a finding, the exemption cannot legally be de-exempted by Art. 9

A compounding mischief lies in the conclusions of the Council in the above quoted permissions 20/158 and ABP 309568 along with 23/507 and 23/583 where a much bigger development immediately abutting the same watercourse is declared **not** to be directly connected to the SAC and beyond all reasonable doubt about the absence of significant effects. These previous conclusions directly contradict Clare's conclusion in this case.
This is a legal farce.

6.

A further matter which must, in my view, be Reviewed in another forum is Clare's para. (c) which says :

"... the Planning Authority are not satisfied that the proposed development is linked to any agricultural activity..."

It doesn't have to be.

That absurd and irrelevant statement must be read in conjunction with the equally absurd statements in the e-mail contacts between my client and an officer in the Council.
See attached with special emphasis on the highlighted texts.

Declan McCormack writes on 11 July 2025 :

Hi Anne Marie,

I realise the land is zoned but the use of land for agriculture is exempt, this land's main use is agriculture and this is the intended use going forward, the shed is for agriculture use.

The Council replies on 25 July 2025 :

The subject site, per Clare County Development Plan 2023-2029, is zoned Open Space whereby "it is intended that lands zoned 'open space' will be retained as undeveloped open space, mainly for passive open space related activities. etc. "

With such, the use of the subject site for agricultural use is not considered as exempted development.

I make this crystal clear. The Planning and Development Act 2000, as amended, is still allve and well. It has not been repealed by the Planning and Development Act 2024 as the relevant repealing section of the 2024 Act has not come into operation.

Section 4.-1 of the 2000 Act reads :

4.-(1) *The following shall be exempted development for the purposes of this Act -*
(a) *development consisting of the use of any land for the purposes of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;*

No prosecution could be justifiably grounded on this gross ineptitude and incompetence. It may well be that somebody in the planning office spotted this outrageous blunder and has compounded the matter by 'inventing' artificial planning obstacles.

This is the kernel of the issue.

It appears the Planning and Development Act 2000, as amended, doesn't apply to Clare !

7.

Reason (e) in Clare's declaration is also flawed.

Without making references to any/all other exemptions, the P.A. declares that :

"There are no other exemptions in the Planning and Development Act 2000 as amended or in the Planning and development regulations, 2001, as amended by which the construction of the shed and access road would be exempted development."

First, the access road was not part of the Section 5 request/referral.

Second, the access pre-existed as did the entrance to the lands – see Google Street Historic street views and Geohive Land Registry Historic aerial views.

Third, there are mulple other exemptions which could/may apply e.g.

Sch. 2 Part 1 Classes 13, 17, 19 20A, 21(a) and (b), 29B, 42.

Part 3 Class 18 (renewable technologies).

8.

It is inexcuseable and unjustifiable that the P.A. should ignore its own and An Bord's orders in previous precedent developments immediately abutting this site and separated only by the dividing watercourse.

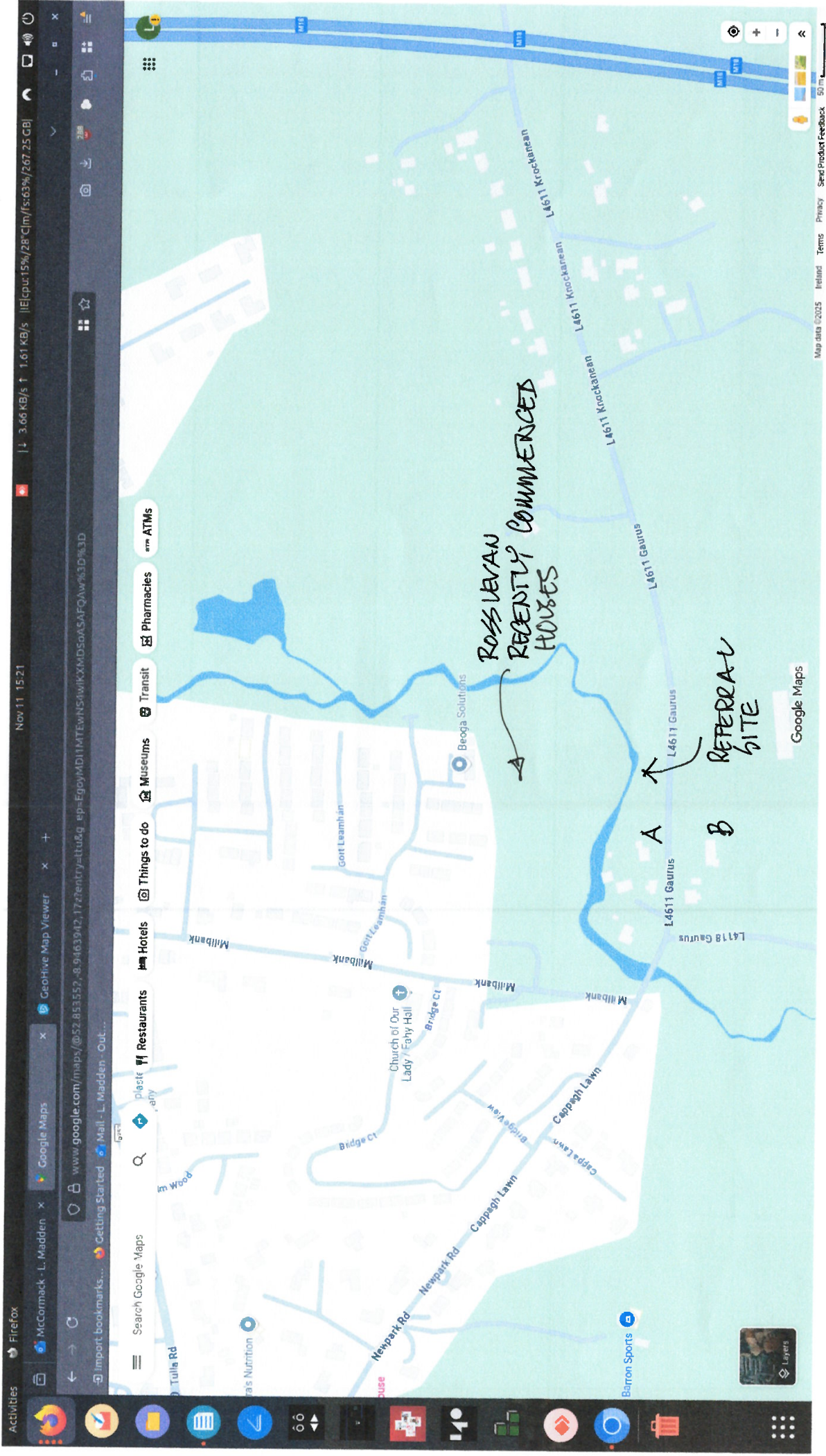
If An Bord/Coimisiún is of the view that an AA Screening- replicating ing the AA and NIS previous findings - would be helpful then it is open to An Bord/Coimisiún to seek same from my client who will furnish same.

My clent relies on the good offices and propriety of An Bord/Coimisiún and seeks a declaration of exemption.

Yours faithfully,

Liam Madden,
Convent Road,
LONGFORD.
N39 EE72





ROSS LEVAN
RECENTLY COMMENCED
HOUSES

REFERRA
SITE

A

B

Nov 11 15:21

3.66 KB/s ↑ 1.61 KB/s | |E|gpr:15%/28°Clm/fs:63%/267.25 GB|

www.google.com/maps/@52.853352,-8.9463942,17z?entry=ttu&g_sp=EgoyMDIIMTEwNSAwIKXMDSaASAFQAw%3D%3D

Activities

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About



Welcome to the [GeoHive](#) main Map Viewer.

GeoHive is the State's Geospatial Data Hub, enabling search, view and access to the key authoritative geospatial information via interactive maps, data catalogues and geospatial applications.

Please visit the [GeoHive](#) data hub to learn more about the functionality and resources available via the platform; information on how to use this map viewer is outlined below.

GeoHive as Geocode

Failte go dtí Roinn Amharcóir Mheána [GeoHive](#).

Is é [GeoHive](#) mól sonraí geospásúla an Stáit cuardhag, amhairc agus deán rochtain ar eochair-eolas údaráis geospásúil an Stáit trí mhapaí, díghníomhachta, catálóga sonraí agus le dhírmeáil gheospásúla.

Tábhairt cuairt ar mhól sonraí [GeoHive](#) chun tuilleadh a fhoghlaim faoin bhfeidhmiúlacht agus na haertharraim atá ar fáil tríd an ardán. Is eolais thíos ar conas an t-amharcóir learscáil seo a úsáid.

How to use this Map Viewer

Zoom In/Zoom Out

Zoom to full extent

Zoom to my location

Search by Address, Eircode, Townland or V9A/B/C/D. Please insert coordinate in the format

<p>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.</p>	<ol style="list-style-type: none"> 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.
<p>CLASS 10 The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.</p>	<ol style="list-style-type: none"> 1. No such structure shall be used for any purpose other than the exercising or training of horses or ponies. 2. No such area shall be used for the staging of public events. 3. No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.

8B. Works consisting of field drainage for agriculture, other than drainage and/or reclamation of wetlands, shall be exempted development.

Commented [142]: Amended by article 3(a) of S.I. No. 464/2011 – European Communities (Amendment to Planning and Development Regulations) Regulations 2011

8C. Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.

Commented [143]: Inserted by article 4 of S.I. No. 454/2011 – Planning and Development (Amendment) (No. 2) Regulations 2011

Commented [144]: Amended by article 3(b) of S.I. No. 464/2011 – European Communities (Amendment to Planning and Development Regulations) Regulations 2011

8D. Works consisting of the removal for the purposes of agriculture of field boundaries including stone walls, clay banks or wire or post fences shall be exempted development.

Commented [145]: Inserted by article 4 of S.I. No. 454/2011 – Planning and Development (Amendment) (No. 2) Regulations 2011

8E. Articles 8B to 8D shall not apply in an area to which a special amenity area order relates.

Commented [146]: Substituted by article 7 of S.I. No. 584/2011 – European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011

Commented [147]: Inserted by article 7 of S.I. No. 584/2011 – European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011

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 –

Commented [149]: Amended by article 2(a) of S.I. No. 45/2020 – Planning and Development Act 2000 (Exempted Development) Regulations 2020

(a) the thinning, felling or replanting of trees, forests or woodlands, or

(b) works ancillary thereto,

shall be exempted development.

Commented [148]: Inserted by article 3 of S.I. No. 219/2013 – Planning and Development (Amendment) Regulations 2013

8G. Development (other than development consisting of the provision of access to a national road within the meaning of the Roads Act 1993 (No. 14 of 1993)) that is licensed or approved under section 6 of the Forestry Act 2014 (No. 31 of 2014) and that consists of-

Commented [151]: Amended by article 2(b) of S.I. No. 45/2020 – Planning and Development Act 2000 (Exempted Development) Regulations 2020.

(a) the construction, maintenance or improvement of a road (other than a public road within the said meaning), that serves a forest or woodland, or

(b) works ancillary thereto,

shall be exempted development.

Commented [150]: Inserted by article 3 of S.I. No. 219/2013 – Planning and Development (Amendment) Regulations 2013

Restrictions on exemption.

9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—
(a) if the carrying out of such development would—

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

- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an

objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

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

(viiB) comprise development in relation to which a planning authority or An Bord 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.

Commented [152]: Substituted by article 5 of S.I. No. 454/2011 – Planning and Development (Amendment) (No. 2) Regulations 2011

(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,
- (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,

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

- (2) Sub-article (1)(a)(vi) shall not apply where the development consists of the construction by any electricity undertaking of an overhead line or cable not exceeding 100 metres in length for the purpose of conducting electricity from a distribution or transmission line to any premises.
- (3) For the avoidance of doubt, sub-article (1)(a)(vii) shall not apply to any operation or activity in respect of which a Minister of the Government has granted consent or approval in accordance with the requirements of regulation 31 of the Habitats Regulations 1997, and where regulation 31(5) does not apply.

Commented [153]: Inserted by article 3 of S.I. No. 256/2008 – Planning and Development (Amendment) Regulations 2008

- Changes of use. 10. (1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—
- (a) involve the carrying out of any works other than works which are exempted development,
 - (b) contravene a condition attached to a permission under the Act,
 - (c) be inconsistent with any use specified or included in such a permission, or
 - (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.
- (2) (a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.

Stage 2 Appropriate Assessment

The Board considered the Natura impact statement submitted by the applicant and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the European site Lower River Shannon Special Area of Conservation (site code: 002165) in view of the site's conservation objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the site-specific conservation objectives for this European site, the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the view of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, and the mitigation measures which are included as part of the current proposal. In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's addendum report in respect of the implications of the proposed development on the integrity of the aforementioned European site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the Lower River Shannon Special Area of Conservation (site code: 002165) in view of the site's conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

This conclusion is based on the following:

- (a) a full and detailed assessment of all aspects of the proposed project including the proposed mitigation measures for the protection of water quality at Gaurus River, the commitment to undertake pre-construction

ecological surveys and the commitment that the works will be overseen by a site ecologist,

- (b) a detailed assessment of combined effects of other plans and projects including historical projects, current proposals, and future plans, and
- (c) no reasonable scientific doubt as to the absence of adverse effects on the integrity of the Lower River Shannon Special Area of Conservation (Site Code: 002165).

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 15th day of December 2020 and by the Natura impact statement submitted to An Bord Pleanála on the 22nd of March 2022 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

APPROPRIATE ASSESSMENT

Having regard to the grant of permission under Pl. Ref. No: 20/158, and the decision taken by An Bord Pleanála where they state that they '...satisfied that the proposed development would not adversely affect the integrity of the Lower River Shannon Special Area of Conservation SAC, in view of the site's conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.' Taking into consideration that the planning permission being sought at present relates to roof design amendments and house design alterations only and does not involve an increase in the number of units or grounds works substantially different from those permitted, and the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development (design alterations) would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site.

PART V

The application form states that Agreement in Principle for Part V is currently being finalized and that Part V obligations to be finalized following a decision on this application.

ASSESSMENT

I consider the main issues involved in the assessment of this planning application are

- Legal Interest
- Principle of Development
- Traffic issues
- Public Health
- Visual Amenities
- Residential Amenities
- Flood Risk
- Development Contributions

PRINCIPLE OF DEVELOPMENT

Having regard to the proposed development which is for an amendment to the granted Planning Permission (P20/158) for development which will consist of 1) Omission of 3 number blocks of semi-detached houses numbered B04 to B09 as previously granted under planning reference P20-158. 2) Inclusion of 5 number blocks of semi-detached houses in lieu of units omitted and amendments to the house design in accordance with house type designs submitted this application, taking into account that the road layout and access arrangements are to remain as previously granted under planning permission P20/158, having regard to the zoning and policy objectives of the Clare County development Plan 2023 – 2029, and considering that the net increase of dwellings within the proposed development is 4 no., the principle of the proposal is considered generally acceptable.

TRAFFIC ISSUES

The Planning Authority notes the contents of the received 3rd party submissions / observations and note that inevitably increased traffic is expected with new residential developments, however taking into account that the proposal is for 1) Omission of 3 number blocks of semi-detached houses numbered B04 to B09 as previously granted under planning reference P20-158. 2) Inclusion of 5 number blocks of semi-detached houses in lieu of units omitted and amendments to the house design in accordance with house type designs submitted this application, taking into account that the road layout and access arrangements are to remain as previously granted under planning permission P20/158, there are no traffic concerns envisaged in relation to the proposal. The Planning Authority also note the submission / observations received, some of which suggest that the entrance to the proposed development should be the existing construction entrance along

privileged or confidential. The information is intended to be for the sole use of the individual(s) or entity named above. If you are not the intended recipient be aware that any disclosure, copying, distribution or use of the contents of this information and or files is prohibited. If you have received this electronic message in error, please notify the sender immediately.

From: Declan McCormack <declanmc85@gmail.com>
Sent: Friday 11 July 2025 15:19
To: enforcements <enforcements@clarecoco.ie>
Subject: Re: UD25-015 - Lands at Gaurus, Ennis, Co. Clare.

Hi Anne-Marie

I realise the land is zoned but the use of land for agriculture is exempt, this lands main use is agriculture and this is its intended use going forward, the shed is for agriculture use.

Regards

Declan

On Thu 3 Jul 2025 at 13:20, enforcements <enforcements@clarecoco.ie> wrote:

works at the subject site of Gauras, Ennis.

As provided, a Section 5 Declaration may be submitted to the Planning Authority within one week of this email, for consideration and determination as to whether the respective development is exempt development or otherwise.

It has come to the attention however that unauthorised works continue at the subject site. You are therefore advised to **cease all works and development with immediate effect**.

All works at the subject site are to cease until a Section 5 Declaration is submitted and decided upon.

Should you fail to adhere to this request, you will be subject to further enforcement proceedings, including legal action.

Mise Le Meas,

Marcelly Flores,

Assistant Staff Officer,

Enforcements Section,

Planning Department.

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

T: 065 6821616 | **E:** mflores@clarecoco.ie | **W:** www.clarecoco.ie

From: enforcements <enforcements@clarecoco.ie>

Sent: Friday 25 July 2025 15:44

To: Declan McCormack <declanmc85@gmail.com>

Cc: enforcements <enforcements@clarecoco.ie>

Subject: RE: UD25-015 - Lands at Gaurus, Ennis, Co. Clare.

A Chara,

Planning Enforcement acknowledge receipt of your email dated July 11th, 2025. As previously explained, the subject site, per the Clare County Development Plan 2023-2029, is zoned Open Space whereby "It is intended that lands zoned 'open space' will be retained as undeveloped open space, mainly for passive open space related activities. The open space/park areas could contain active play facilities such as children's play areas, but these should

only be a small component of the overall areas involved."

With such, the use of the subject site for agricultural use is not considered as exempt development.

Should you wish to submit a Section 5 Declaration to the Planning Authority to ascertain exemption status or otherwise, you are requested to submit same no later than one (1) week from the date of this correspondence. Failure to do so will result in the next stage of planning enforcement, which may involve legal action.

Mise le Meas,

Anne-Marie Greer-Casey,

Staff Officer,

Enforcements Section,

Planning Department.

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

T: 065 6821616 | E: agcasey@clarecoco.ie | W: www.clarecoco.ie

LOCAL AUTHORITY OF THE YEAR 2022



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL



Tá an t-eolas atá sa ríomhphost seo, agus in aon cheangaltán leis, rúnda, agus is d'aird agus d'úsáid an fhaighteora nó na bhfaighteoirí amháin nó eintiteas ainmnithe thuas atá sé. Murar tusa faighteoir beartaithe an ríomhphoist seo nó aon chud de, níor chóir duit an teachtaireacht seo a úsáid, a nochtadh, a chóipeáil, a dháileadh nó a choinneáil. Más rud é gur trí bhotún a fuair tú an ríomhphost seo cuir sin in iúl don tseoltóir gan mhoill.

This electronic message contains information (and may contain files), which may be

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

Reference No.: R25-81



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R25-81

Is the erection of a 282.96m² agricultural shed development and if so, is it exempted development?

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

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended; and
- (d) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The construction of a 282.96sqm agricultural shed does constitute "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) Based on the details as submitted with the referral to date, the Planning Authority are not satisfied that the proposed development is linked to any agricultural activity and does not comply with condition no. 5 by reason of its proximity within 100m of a number of dwellings for which consent from the landowner/occupier/ person in charge thereof has not been provided. Therefore, the subject shed is not exempted under Class 9, Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) Based on the location of the subject development on lands which comprise a mapped wetland habitat which is adjacent to an existing watercourse with direct connectivity to the Lower River Shannon SAC, it cannot be concluded beyond a reasonable scientific doubt that there would be no likely significant effects on a European Site without the use of mitigation measures. Therefore, the subject shed is not exempted under Article 9 (vii)(b) of the Planning and Development Regulations 2001 (as amended).
- (e) There are no other exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations 2001, as amended, by which the construction of the shed and access road would constitute exempted development.

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

The proposed development consisting of the construction of a 282.96m² agricultural shed at Gaurus, Ennis, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning, Placemaking & Economic Development

22nd October 2025

To Whom it may concern,

I RYAN ANDREWS have given consent to Declan McCormack to construct a agricultural shed in neighbouring lands at Gaurus, Barefield, Ennis County Clare.

~~R Andrew~~

Gaurus, U95 A4P2

18/may/25

To Whom it may concern,

I *Tony Spellissy* have given consent to Declan McCormack to construct a
agricultural shed in neighbouring lands at Gaurus, Barefield, Ennis County Clare.

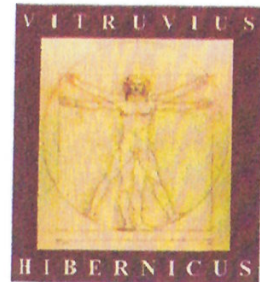
M-5-2025

V95 EHC4

LIAM MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC. TECH.
ENVIRONMENTAL SCIENTIST PLANNING CONSULTANT LEGAL ADVISOR S.I. 8/2017 SCH. 5
CONVENT ROAD, LONGFORD N39 EE72

EU REGISTERED ARCHITECT NETHERLANDS REG. NO. 1.180615.001
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND.

UK REGISTERED ARCHITECT REG. NO. 046170I
10/2 354 MEADOWSIDE QUAY WALK, GLASGOW G11 6EE



Planning Department,
Economic Development Directorate,
Clare County Council,
ENNIS
V95 DXP2

24 Sept. 2025

Section 5 Request.

Dear Sir/Madam,

I have been retained by Declan McCormack who instructed me to lodge this Request.
Attached are :

- (i) Request Fee €80
- (ii) Tailte Eireann - Land Registry map with site edged in BLUE.
- (iii) Plans, Section Elevations and site layout
- (iv) Letters fo consent from neighbours within 100m of development.

I refer to your communications with my client which speak for themselves.
I submit that the development is Exempted Development under Article 6 Schedule 2
Part 3 Exempted Development – Rural *Agricultural Structures* Class 9.
Moreover the development complies with all 6 attached Conditions/Limitations.

In addition, the exemption status does not become de-exempted under Article 9 of the
Planning and Development Regulations 2001, as amended.

The structure is situate on establised agricultural lands.
No change of use, material or otherwise, to the establised use is involved.

Liam Madden,
Convent Road,
LONGFORD
N39 EE72



Taitte Éireann
Chartered Land & Surveyors
Subsidiary of
Taitte Group

Folio: CE9324F

This map should be read in conjunction with the folio.

Taitte 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.taitte.ie.

This map incorporates TÉ Surveying map data under licence from TÉ. Copyright © Taitte Éireann and Government of Ireland.

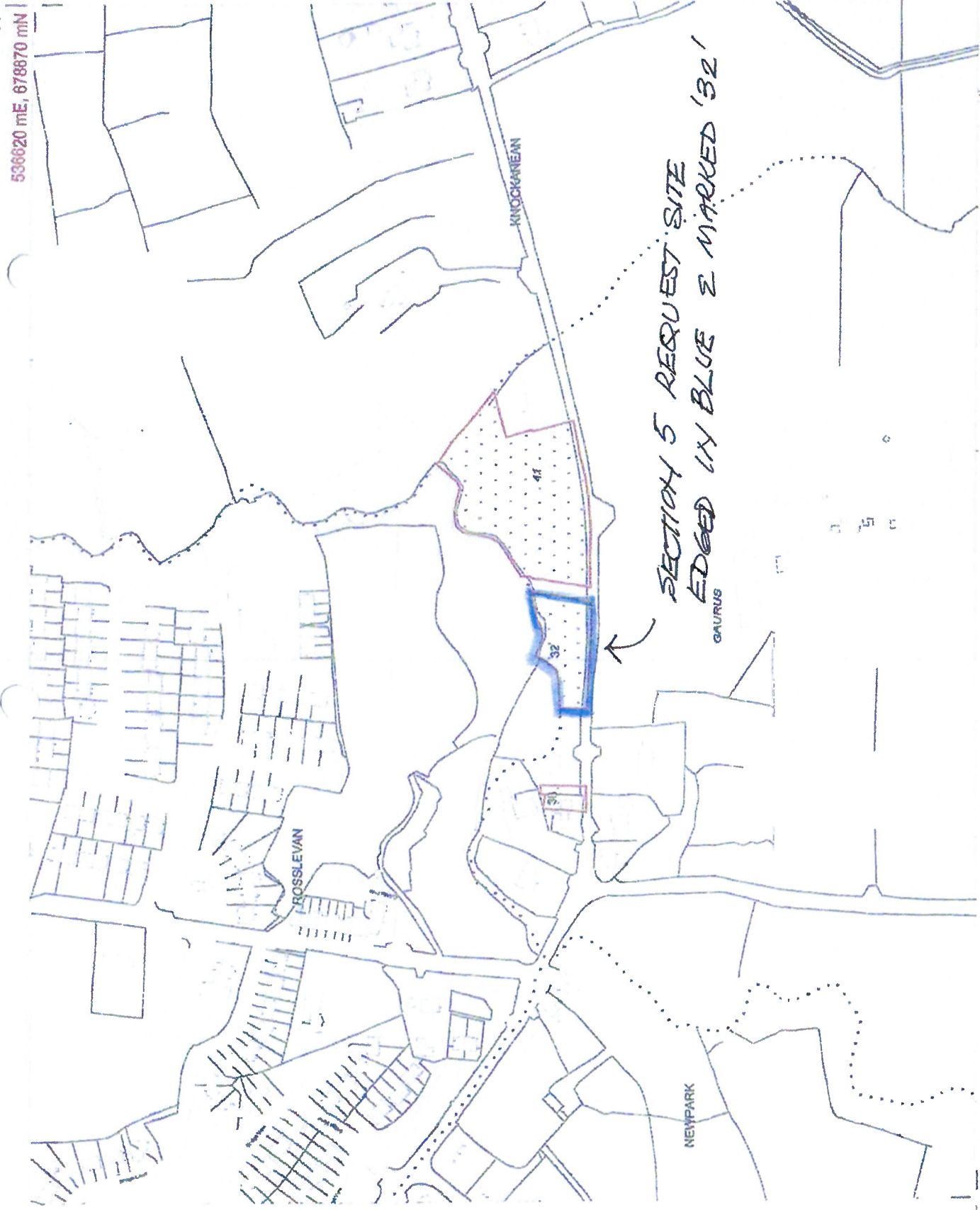
- (centre-line of parcel(s) edged)
- Freehold
- Leasehold
- Subleasehold

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

Taitte 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 65 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and 77th Act 2006.



27/28 Main Street Longford Co Longford

DATE 24/9/25

P07

COMHA: PAY CLARE COUNTY COUNCIL OR ORDER
 EIGHTY EURO €80-00

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

RELAND 260325
 This cheque contains invisible uv and microtext security features

MR LIAM MADDEN
Liam Madden

000260 990073 31659749 09

**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	DECLAN McCORMACK GREGGAVNAHILLA CLARECASTLE ENNIS Co CLARE V95 R8R9
(b) Telephone No.:	AGENT: 043-33-41151
(c) Email Address:	AGENT: VITRUVIUS.HIBERNICUS@hotmail.com
(d) Agent's Name and address:	LIAM MADDEN CONVENT ROAD LONGFORD N39 EE72

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?

WHETHER THE ERECTION OF A 282.96 M²
AGRICULTURAL SHED IS OR IS NOT
EXEMPTED DEVELOPMENT

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

~~THE~~

SEE ATTACHED COVER LETTER

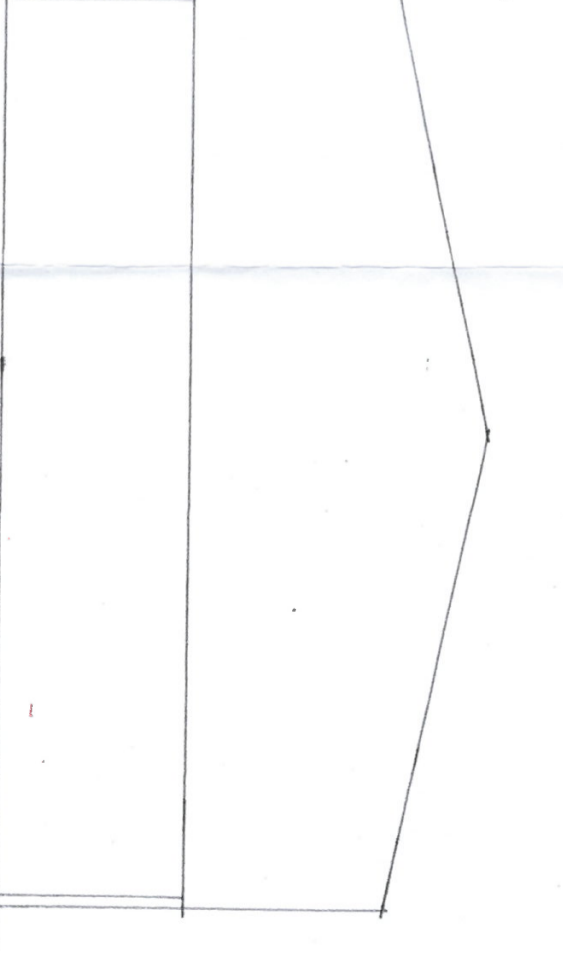
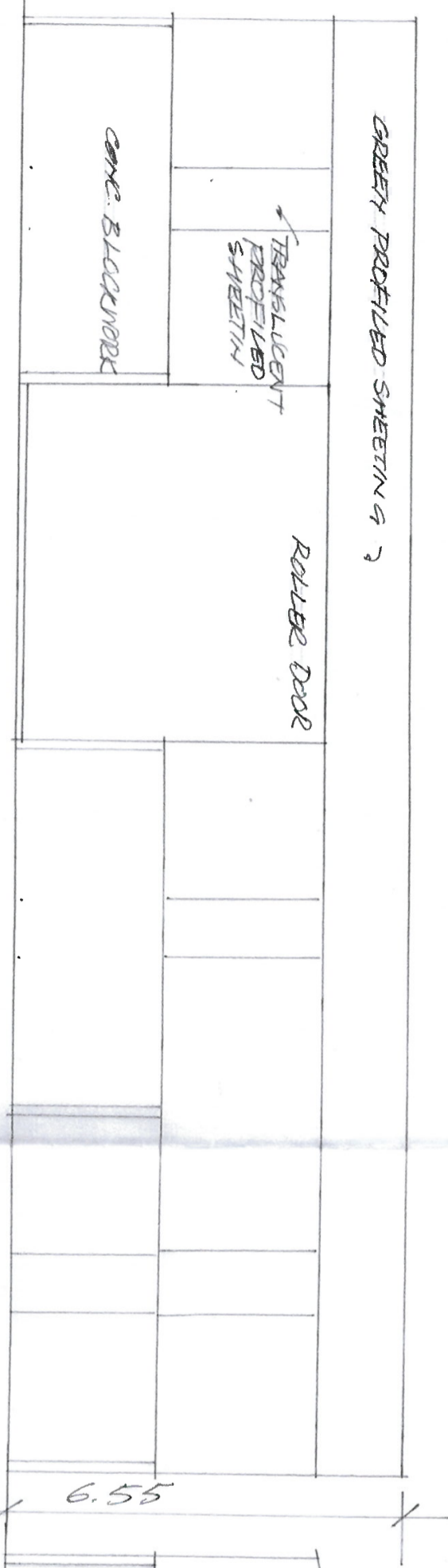
(c) List of plans, drawings etc. submitted with this request for a declaration:
(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

PLANS, SECTION & ELEVATIONS 1:100
PARTIAL SITE LAYOUT 1:500
SITE LOCATION/FOLIO MAP
2 NO. CONSENT LETTERS

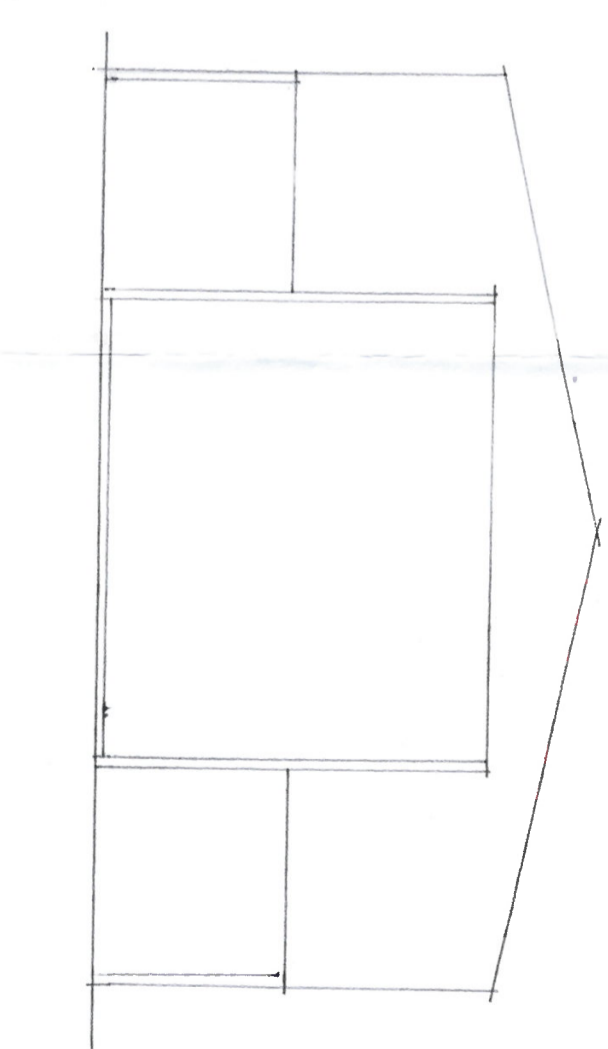
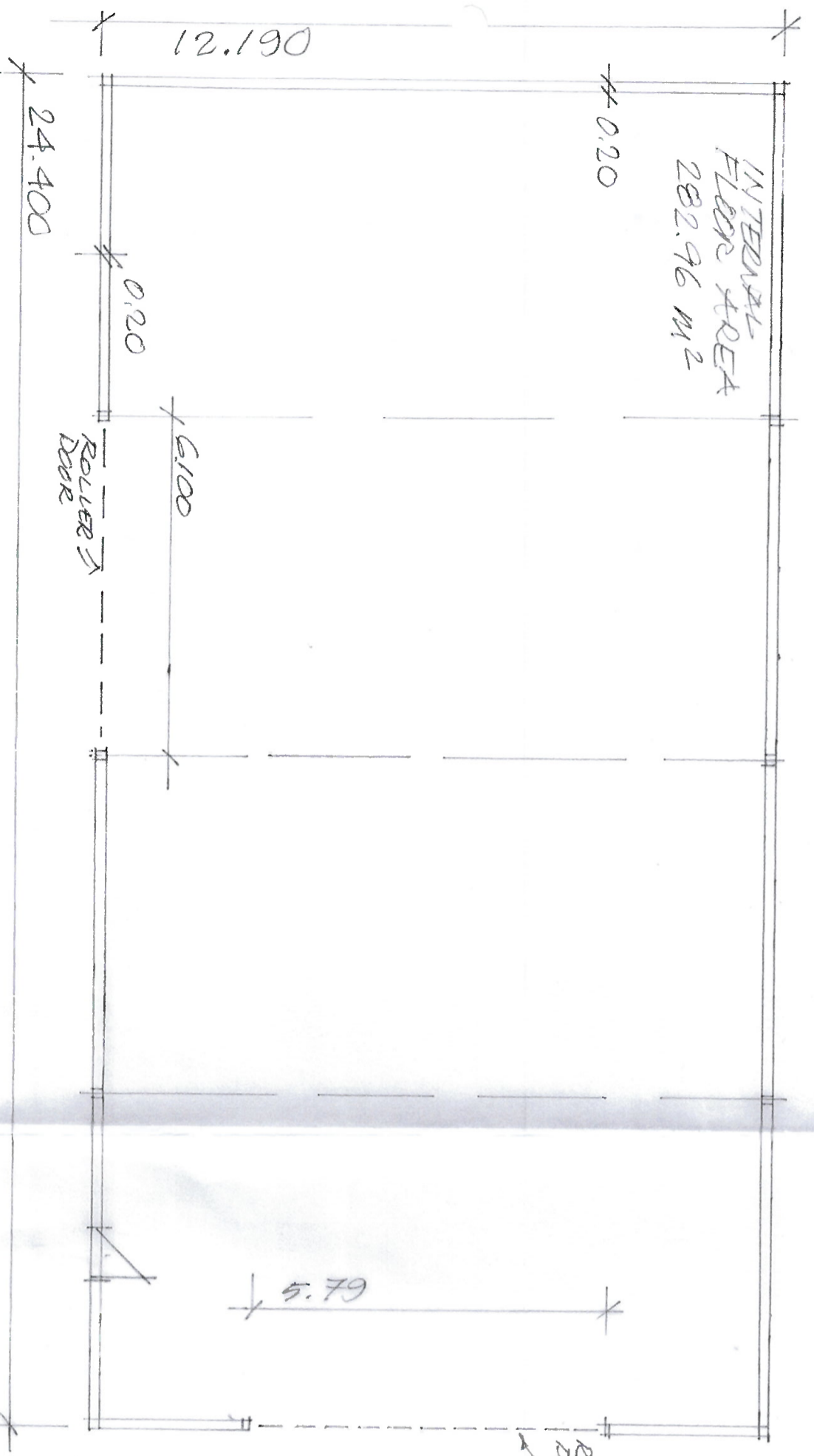
3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	BAREFIELD, GAURUS, ENNIS CO-CLARE -SEE FOLIO MAP ATTACHED
(b) Do the works in question affect a Protected Structure or are within the curtilage of 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):	OWNER - LAND REGISTRY FOLIO CE 9324 F
(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>	N/A
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	N/A
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	ENF. NOTICE 25/015
(g) Were there previous planning application/s on this site? If so please supply details:	NO
(h) Date on which 'works' in question were completed/are likely to take place:	WORKS COMMENCED C. JUNE 2025

SIGNED: Sam Madden

DATE: 23/9/25

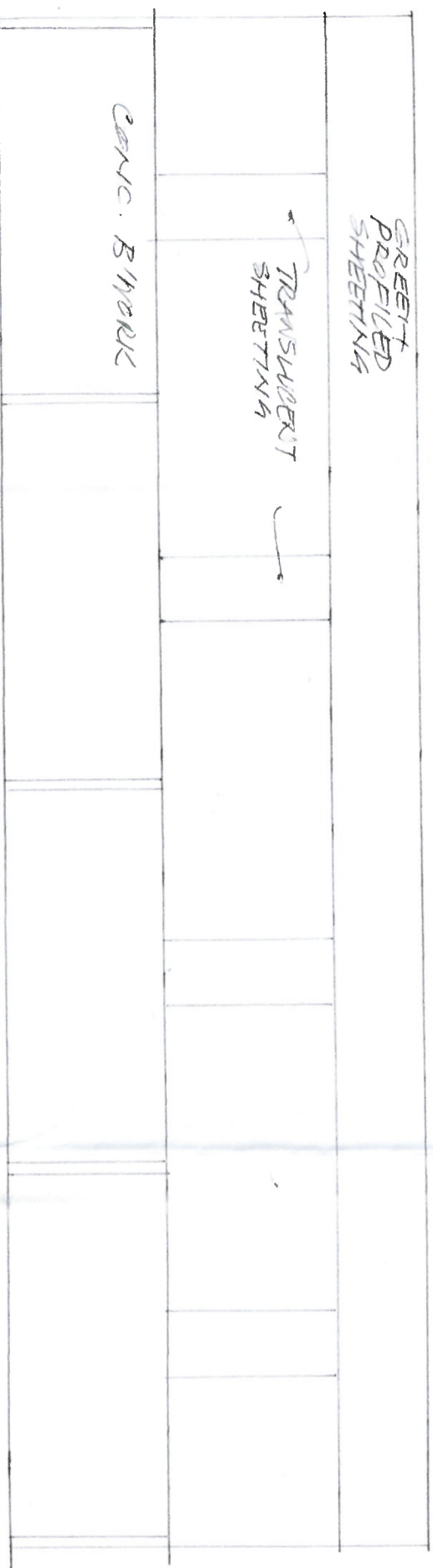


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 14 NOV 2025
 LTR DATED FROM
 225870-25
 LPS
 ACT

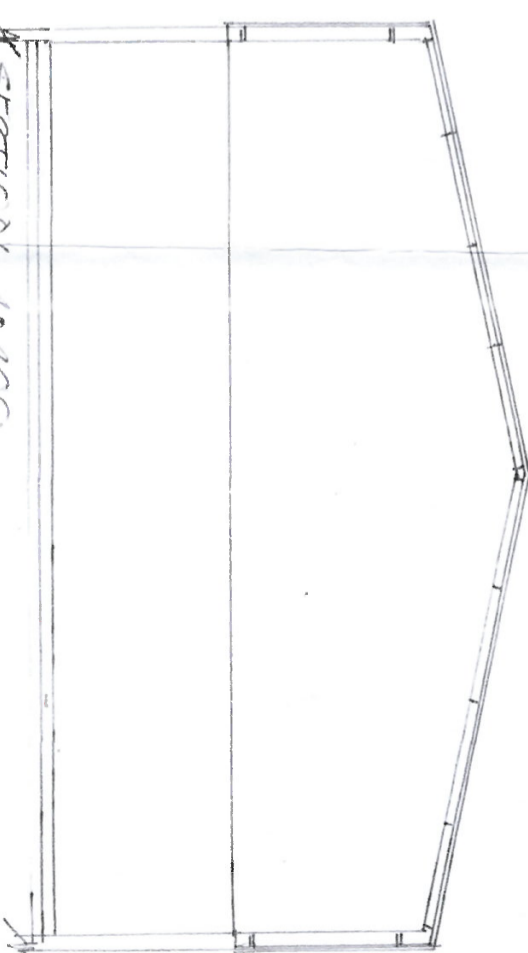


PLAN 1:100

EAST 1:100

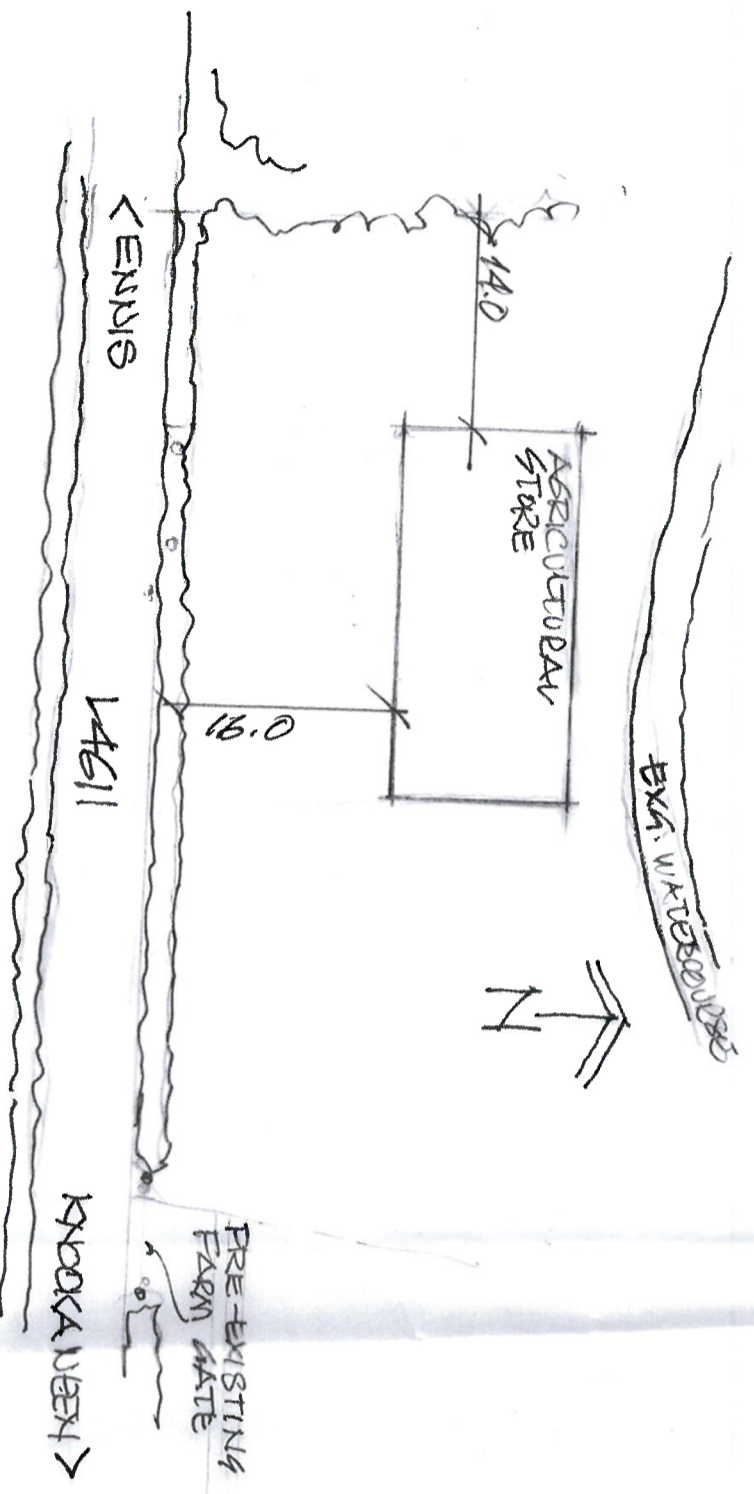


NORTH 1:100



SECTION 1:100

SITE LAYOUT 1:500



AN COIMISIÚN PLEANÁLA
 LTR DATED 14 NOV 2025
 FROM
 LD 25870-25
 AC