



Comhairle Contae Chill Mhantáin Wicklow County Council

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development**

Áras An Chontae / County Buildings
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DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT ACT 2000 AS AMENDED

Applicant: Robert Mc Coy

Location: Ballinteskin House, Ballinteskin, Co Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PERD/2024/1171

A question has arisen as to whether *“Proposed extension to existing farm yard for storage of silage bales”* is or is not exempted development.

Having regard to: Having regard to the statutory definition of the terms ‘works’ and ‘development’, referred to above, which define works as, amongst other things, any act or ‘operation of construction’ or ‘alteration’ and development as the ‘carrying out of works on land’, I would consider that the creation of a new surface layer of hardcore over the existing soil (likely also involving removal of the topsoil) would comprise both ‘works’ and ‘development’, as defined in the Planning and Development Act, 2000 (as amended).

Main Reasons with respect to Section 5 Declaration:

It is considered that the proposed development, specifically the laying of a layer of hardcore to form an extended agricultural yard, would involve the creation of “structure”, the definition of which, as set out in Section 2 of the Planning and Development Act 2000 (as amended) includes “any building, structure, excavation, or other thing constructed or made on, in or under any land”.

It is considered that the proposed development would come within the description of development in Class 8 of Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended). With regard to the conditions and limitations under that Class, these are considered in turn:


1. Compliant.
2. Non-compliant. The gross floor space of the proposed yard area exceeds the 300sqm.
3. Compliant. The applicant states that no effluent storage is needed given that the proposed use is for storage of silage bales and distance from any surface water body.
4. Compliant. The proposed yard area would be located more than 10 metres from a public road
5. Compliant. The structure would not exceed 8metres in height.
6. Compliant.
7. Compliant.



In conclusion, the proposed development would exceed the limitation in respect of gross floor space associated with Class 8 and would not therefore constitute exempted development.

The Planning Authority considers that "Proposed extension to existing farm yard for storage of silage bales" is development and is not exempted development.

Signed: _____


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated day of September 2024



Comhairle Contae Chill Mhantáin Wicklow County Council

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Robert Mc Coy
Ballinteskin House
Ballinteskin
Co Wicklow

17th September 2024

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) -EX60_2024 - Robert Mc Coy – Ballinteskin, Co Wicklow

A Chara,

I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,

**ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT.**



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2024/1171

Reference Number: EX 60/2024

Name of Applicant: Robert Mc Coy

Nature of Application: Section 5 Referral as to whether "*Proposed extension to existing farm yard for storage of silage bales*" is or is not development and is or is not exempted development.

Location of Subject Site: Ballinteskin House, Ballinteskin, Co Wicklow

Report from: Suzanne White (SEP)

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "*Proposed extension to existing farm yard for storage of silage bales*" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to: Having regard to the statutory definition of the terms 'works' and 'development', referred to above, which define works as, amongst other things, any act or 'operation of construction' or 'alteration' and development as the 'carrying out of works on land', I would consider that the creation of a new surface layer of hardcore over the existing soil (likely also involving removal of the topsoil) would comprise both 'works' and 'development', as defined in the Planning and Development Act, 2000 (as amended).

Main Reasons with respect to Section 5 Declaration:

It is considered that the proposed development, specifically the laying of a layer of hardcore to form an extended agricultural yard, would involve the creation of "structure", the definition of which, as set out in Section 2 of the Planning and Development Act 2000 (as amended) includes "any building, structure, excavation, or other thing constructed or made on, in or under any land".

It is considered that the proposed development would come within the description of development in Class 8 of Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended). With regard to the conditions and limitations under that Class, these are considered in turn:

1. Compliant.
2. Non-compliant. The gross floor space of the proposed yard area exceeds the 300sqm.

3. Compliant. The applicant states that no effluent storage is needed given that the proposed use is for storage of silage bales and distance from any surface water body.
4. Compliant. The proposed yard area would be located more than 10 metres from a public road
5. Compliant. The structure would not exceed 8metres in height.
6. Compliant.
7. Compliant.

In conclusion, the proposed development would exceed the limitation in respect of gross floor space associated with Class 8 and would not therefore constitute exempted development.

Recommendation

The Planning Authority considers that *"Proposed extension to existing farm yard for storage of silage bales"* is development and is not exempted development as recommended in the planning reports.

Signed  Dated 17th day of September 2024

ORDER:

I HEREBY DECLARE:

That *"Proposed extension to existing farm yard for storage of silage bales"* is development and is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed:  Dated 17th day of September 2024
A/ Director of Services
Planning, Economic & Rural Development



**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

Section 5 – Application for declaration of Exemption Certificate

TO: Fergal Keogh SE
FROM: Suzanne White SEP
REF: EX60/2024
DECISION DUE DATE: 18/09/2024
APPLICANT: ROBERT MCCOY
DEVELOPMENT: EXTENSION TO EXISTING AGRICULTURAL YARD AREA
LOCATION: BALLINTESKIN, CO. WICKLOW

See previous report dated the 26th July 2024; a request for the submission of further information issued on the 26th July 2024, and a response was received on the 29th August 2024.

Further Information was requested as follows:

1. In order to fully assess the Section 5 query, you are requested to submit further details concerning the proposed development, as follows:

- a) *A site layout plan, scaled to enable measurements to be taken, showing:*
 - *The site area of the existing yard and proposed extension*
 - *The distance between the existing/proposed yard and the public road*
- b) *Details of any existing and proposed effluent storage. Note: these should be adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.*
- c) *Confirmation of the extent of the area over which 'shale' or other hardcore is to be laid.*

Response:

The applicant has submitted:

- a) revised site layout plan which shows:
 - Existing yard area of 870sqm and proposed extended area of 380sqm
 - Distance between existing & proposed yard of 12.5metres
- b) Covering letter stating:
 - The area will only be used for storage of silage bales. No effluent storage is needed, having regard to SI No. 113 of 2022 part 4 (15) given that there is no water abstraction point on the farm and the yard is not within 20m of surface water

- c) Revised site layout plan and letter indicate that shale/other hardcore will be laid over an area of 380sqm

Question

The applicant has applied to see whether or not the following is or is not development and exempted development (proposed description reworded):

“proposed extension to existing farm yard for storage of silage bales”

Development plan:

Wicklow County Development Plan 2022-2028

Landscape category:

Eastern Corridor

Watercourse:

Three Mile River is located c.430m to the south

Protected structures / archaeology:

SMRS: WI02770---- Castle – unclassified is located c.220m to the southwest

Protected views and prospects:

Listed prospect no. 30 – from R750 to Arklow - prospect towards sea from coast road

Legislative Context

Planning and Development Act, 2000 (as amended):

Section 2

Agriculture: “includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur or for the purpose of its use in farming of the land). The training of horses, the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardening and nursery grounds and agricultural shall be construed accordingly”.

“development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly;

“exempted development” has the meaning specified in section 4;

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and— (a) where the context so admits, includes the land on, in or under which the structure is situate, and (b) in relation to a protected structure or proposed protected structure, includes— (i) the interior of the structure, (ii) the land lying within the curtilage of the structure, (iii) any other structures lying within that curtilage and their interiors, and (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon;

“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.

Section 3(1) of the Act states the following in respect of ‘development’:

“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.”

Section 4 sets out the types of works that while considered ‘development’, can be considered ‘exempted development’ for the purposes of the Act.

Section 4 (1) (a)

“development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;”

Section 4(2) makes provision for ministerial regulations to set out further exemptions. The 2001 Planning Regulations as amended derive from this section and designate further works as being exempted development for the purposes of the act.

Section 4(3); A reference in this Act to exempted development shall be construed as a reference to development which is—

- a) any of the developments specified in subsection (1), or
- b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.

Section 4 (4) Notwithstanding *paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2)*, development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Planning and Development Regulations 2001 (as amended)

Article 6 (3)

Subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), 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.

Article 9 (1) Restrictions on exemption

Article 9 sets out a number of restrictions on exemptions under Article 6. The most relevant restrictions to the case are set out below:

9 (1) (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,

9 (1)(a)(iii) 'endanger public safety by reason of traffic hazard or obstruction of road users'

9(1)(a)(vi) "interfere with the character of the landscape or a view or prospect of special amenity value or special interest, the preservation of which is an objective of the 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".

9 (1)(a)(viiB) "comprise the development in relation to which a Planning Authority or An Bord Pleanála is the competent authority in relation to an 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".

9 (1) (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,

Schedule 2, Part 3 outlines classes of exempt development in the rural area as well as associated conditions and limitations. Schedule 2, Part 3, Class 8 is potentially relevant.

Agricultural Structures	
Class 8	
Works consisting of the provision of roofless cubicles, open loose yards, selffeed silo or silage areas, feeding aprons, assembly yards, milking parlours or structures for the making or storage of silage or any other structures of a similar character or description, having an aggregate gross floor space not exceeding 200 square metres, and any ancillary provision for effluent storage.	<ol style="list-style-type: none"> 1. No such structure shall be used for any purpose other than the purpose of agriculture. 2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate. 3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution. 4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road. 5. No such structure within 100 metres of any public road shall exceed 8 metres in height. 6. No such structure shall be situated, and no effluent from such structure shall be stored, 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. 7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

Assessment

Is or is not development

Having regard to the statutory definition of the terms 'works' and 'development', referred to above, which define works as, amongst other things, any act or 'operation of construction' or 'alteration' and development as the 'carrying out of works on land', I would consider that the creation of a new surface layer of hardcore over the existing soil (likely also involving removal of the topsoil) would comprise both 'works' and 'development', as defined in the Planning and Development Act, 2000 (as amended).

Is or is not exempted development

It is considered that the proposed development, specifically the laying of a layer of hardcore to form an extended agricultural yard, would involve the creation of "structure", the definition of which, as set out in Section 2 of the Planning and Development Act 2000 (as amended) includes "any building, structure, excavation, or other thing constructed or made on, in or under any land".

It is considered that the proposed development would come within the description of development in Class 8 of Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended). With regard to the conditions and limitations under that Class, these are considered in turn:

1. Compliant.
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4. Compliant. The proposed yard area would be located more than 10 metres from a public road
5. Compliant. The structure would not exceed 8metres in height.
6. Compliant.
7. Compliant.

In conclusion, the proposed development would exceed the limitation in respect of gross floor space associated with Class 8 and would not therefore constitute exempted development.

Recommendation

With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether:

"proposed extension to existing farm yard for storage of silage bales"

is or is not development, and is or is not exempted development.

The Planning Authority considers that:

The "proposed extension to existing farm yard for storage of silage bales" is development and is not exempted development.


Main Considerations with respect to Section 5 Declaration:

- (a) The details submitted with this section 5 application (EX60/2024) on the 4th July 2024 and 29th August 2024;

- (b) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended).
- (c) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended) and Class 8 of Part 3 of Schedule 2 of the Regulations (as amended)

Main Reasons with respect to Section 5 Declaration:

- (a) The laying of a new surface layer comprised of hardcore over the existing soil in order to form a farm yard constitutes 'works', and 'development' as defined in Section 2 and Section 3, respectively, of the Planning and Development Act, 2000, as amended.
- (b) The formation of a farmyard would come within the description set out under Class 8: Part 3: Schedule 2 of the Planning and Development Regulations 2001 (as amended).
- (c) The works would not be compliant with the Limitations set out under Class 8 because the gross floor space of the yard area would exceed 300sqm.


Suzanne White SEP
17/09/2024

Agued Juliana Aidos
17/09/2024



**Comhairle Contae Chill Mhantáin
Wicklow County Council**

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MEMORANDUM

WICKLOW COUNTY COUNCIL

**TO: Suzanne White
Senior Executive Planner**

**FROM: Nicola Fleming
Staff Officer**

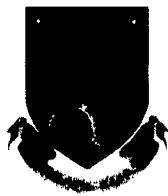
**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX60/2024**

I enclose herewith application for Section 5 Declaration received completed on 04/07/2024 along with Further Information received on 29/08/2024.

The due date on this declaration is 18th September 2024.

**Staff Officer
Planning Development & Environment**





COMHAIRLE CONTAE CHILL Mhantáin
Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development

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Robert McCoy
Ballinteskin House
Wicklow
Co. Wicklow

9th July 2024

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX60/2024

A Chara

I wish to acknowledge receipt of your application and details supplied by you in respect of the above Section 5 application along with Further Information received on 29th August 2024. A decision is due in respect of this application by 18th September 2024.

Mise, le meas

Nicola Fleming
Staff Officer
Planning, Economic & Rural Development

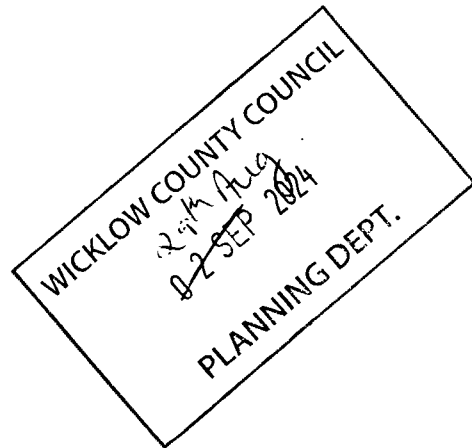


Robert McCoy
Ballinteskin House
Wicklow, Co Wicklow
Â67 AD89

Nicola Fleming
Planning, Economic & Rural Development
Wicklow County Council
County Buildings
Whitegates
Wicklow Town
A67 FW96

29 August 2024

Re: EX60/2024



A Chara,

In response to your letter dated 26th July 2024 regarding my section 5 query, please note the following:

- a) Enclosed site layout plan showing the site area of existing yard and proposed extension as well as the distance between the existing/proposed yard and the public road.
- b) This area will only be used as silage storage or for farm machinery. As outlined in the Statutory Instruments S.I No. 113 of 2022 part 4 (15) "silage bales shall not be stored outside of farmyards within 20m of surface waters or a drinking water abstraction point in the absence of adequate facilities for the collection and storage of any effluent arising". As there is no water abstraction point on this farm and the proposed yard is not within 20m of surface water and the silage bales will not be stored more than 2 bales high, no effluent treatment is needed.
- c) The extent of the area over which shale or other hardcore is to be laid is as shown on the site layout plan consist of 380 sq. metres.

If you require any more information regarding above, please do not hesitate to contact me. I would greatly appreciate a swift response, due to the fact that the area will be needed within the next month for silage storage.

Kind regards

Robert McCoy

A handwritten signature in black ink, appearing to read 'Robert McCoy', written over a white background.

Enclosed:

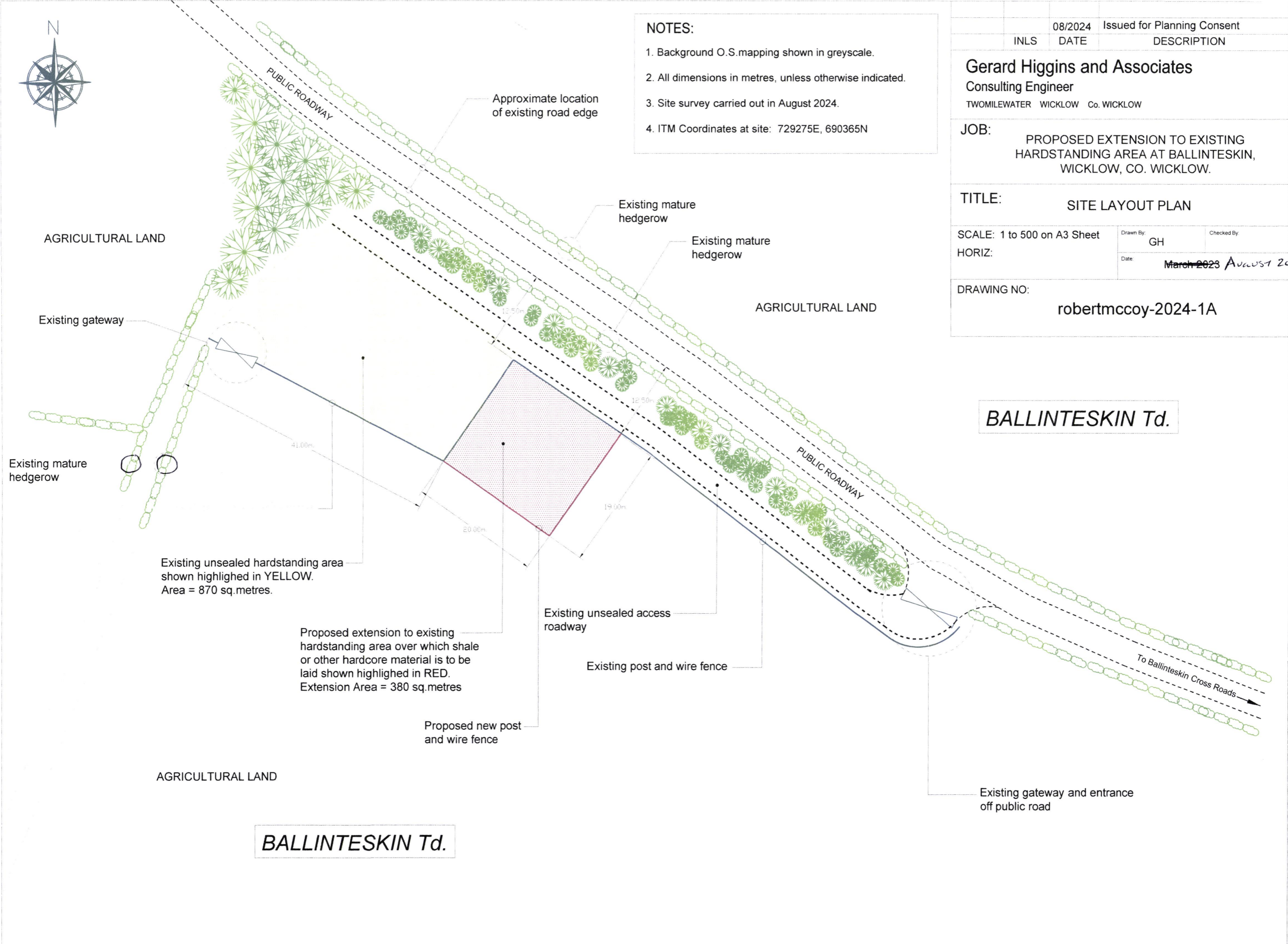
- Site Layout Map
- Statutory Instruments S.I. No. 113 of 2022 excerpt
- Explanatory Handbook for Conditionality Requirements (DAFM)
- Teagasc advisory circular



NOTES:

1. Background O.S. mapping shown in greyscale.
2. All dimensions in metres, unless otherwise indicated.
3. Site survey carried out in August 2024.
4. ITM Coordinates at site: 729275E, 690365N

	08/2024	Issued for Planning Consent
INLS	DATE	DESCRIPTION
Gerard Higgins and Associates		
Consulting Engineer		
TWO MILE WATER WICKLOW Co. WICKLOW		
JOB:	PROPOSED EXTENSION TO EXISTING HARDSTANDING AREA AT BALLINTESKIN, WICKLOW, CO. WICKLOW.	
TITLE:	SITE LAYOUT PLAN	
SCALE: 1 to 500 on A3 Sheet	Drawn By: GH	Checked By:
HORIZ:	Date: March 2023 August 2024	
DRAWING NO:	robertmccoy-2024-1A	



BALLINTESKIN Td.

BALLINTESKIN Td.



STATUTORY INSTRUMENTS.

S.I. No. 113 of 2022



EUROPEAN UNION (GOOD AGRICULTURAL PRACTICE FOR
PROTECTION OF WATERS) REGULATIONS 2022

consumption in a water scheme supplying 10m³ or more of water per day or serving 50 or more persons,

- (b) 50m of any other borehole, spring or well used for the abstraction of water for human consumption other than a borehole, spring or well specified at paragraph (a).
- (c) 20m of a lake shoreline or a turlough likely to flood,
- (d) 50m of exposed cavernous or karstified limestone features (such as swallow-holes and collapse features),
- (e) 20m of any surface waters (other than a lake or surface waters specified at paragraph (a)).

(14) Organic fertiliser shall not be held in a field at any time during the periods specified in Schedule 4 as applicable to that substance.

(15) Silage bales shall not be stored outside of farmyards within 20m of surface waters or a drinking water abstraction point in the absence of adequate facilities for the collection and storage of any effluent arising.

(16) No cultivation shall take place within 2m of a watercourse identified on a modern 1:5,000 scale OSi mapping or better, except in the case of grassland establishment or the sowing of grass crops.

(17) Supplementary feeding points shall not be located within 20m of waters and shall not be located on bare rock.

(18) In the case of livestock holdings with grassland stocking rates of 170 kg nitrogen per hectare from livestock manure or above prior to export of livestock manure, bovine livestock shall not be permitted to drink directly from watercourses identified on the modern 1:5,000 scale OSi mapping or better. Where bovine livestock have direct access to watercourses on the holding, a fence shall be placed at least 1.5m from the top of the riverbank or water's edge (as the case may be). It will be permissible to move livestock across a watercourse to an isolated land parcel where necessary, provided that both sides of the watercourse are fenced.

(19) In the case of holdings identified in sub-Article 18, supplementary drinking points may not be located within 20m of surface waters.

(20) There shall be no direct runoff of soiled water from farm roadways to waters. The occupier of a holding shall comply with any specification for farm roadways specified by the Minister for Agriculture, Food and the Marine pursuant to this requirement.

(21) There shall be no direct runoff of soiled waters to waters resulting from the poaching of land on the holding.

(22) For late harvested crops and late harvested spring cereal crops, a minimum buffer of 6m shall be put in place to protect any intersecting watercourses.

2023-2027

Version 23-03

Explanatory Handbook for Conditionality Requirements



An Roinn Talmhaíochta,
Bia agus Mara
Department of Agriculture,
Food and the Marine



Co-funded by
the European Union

- Silage bales cannot be stacked more than **2 bales high** or stored within **20m** of a surface water or water abstraction point unless there are storage facilities in place to collect any potential effluent.
- Supplementary feeding points cannot be placed within **20m** of a watercourse or on bare rock.
- **Sacrifice paddocks** or designated areas of the farm where livestock are kept to “save the rest of the land”, particularly during the winter months, **are not allowed**.



Figure 7: Storing silage bales within 20m of a watercourse without collection facilities will result in a sanction.

Conditions for Availing of a Reduced Storage Capacity Through Out-Wintering Livestock

You may be able to avail of reduced storage capacity for organic fertilisers produced from cattle (except dairy cows), sheep, deer, or goats by out-wintering livestock. However, you must ensure the following:

- The amount of manure produced on your holding annually, cannot exceed **130kgs** of organic nitrogen per hectare. **From the 1st of January 2025**, holdings wishing to avail of reduced storage capacity by out-wintering livestock **must not exceed 100kgs of organic nitrogen per hectare**.
- The grassland stocking rate on the out-wintering area for livestock (excluding dairy cows), cannot exceed **85kgs** of organic nitrogen during the relevant prohibited spreading periods as set out in above in Table 2.
- The grassland stocking rate on the out-wintering area for deer, goats or sheep, cannot exceed **130kgs** of organic nitrogen during the relevant prohibited spreading period. **From the 1st of January 2025, this will be reduced to 100kgs of organic nitrogen per hectare**.
- All the lands used for out-wintering of livestock must be comprised within the holding.
- The livestock being outwintered must always have free access to the required lands.
- **Severe poaching must not occur.**

You cannot use the reduced storage by out-wintering in respect of dairy cows.

Take Care of Silage Bales

Bales of silage can be safely stored for as long as the plastic film in which they are wrapped continues to exclude air. This means that, if properly made and stored, two year old bales of silage will still be in good condition. However if damaged plastic film allows air access to the silage over an extended duration of time this will result in contamination by mould growth. This may end up with localised rotting of the silage which can extend throughout the bale over time.

Silage adjacent to punctures in a bale will become wetter and have reduced dry matter digestibility and increased ash. The pH will rise and this will diminish the preservation of the silage bale initially in the area of the puncture but again spreading throughout the bale over time. All of these factors will cause the punctured bale to have a much diminished feed value.

Newly wrapped silage bales should always be regular-shaped and very firm. This helps both in applying the plastic film correctly and in reducing the risk of damage while the bales are being mechanically handled. Bales should also have sufficient plastic film properly applied.

Bales should be carried to the storage yard immediately after baling/wrapping. At this point they are firm and will be less prone to damage compared to later when they will lose shape. Transport at this stage will also reduce the risk of them being damaged in the field by birds etc. Though it may not be practical the best option to avoid damage is to carry unwrapped bales to the yard area and bale them there.

Depending on the moisture content of the grass silage bales of silage can weigh from 350 - 1000 kg. This weight together with the fragility of the plastic film will require careful handling of the bales by equipment to avoid damage. Metal arms of bale lifters should be smooth and bales should be lifted and carried very gently. Care should be taken when lifting bales into their storage position - when bales are being tipped to store on their flat end they can be damaged.

Place the wrapped bales on a smooth surface which will not puncture the film. Bales can be successfully stored on either their curved or flat side. Bales should be stored on level ground to reduce the risk of movement. If this is not possible when storing on sloping ground the bales should be placed with their flat ends facing the slope or on their flat end. If storing bales in a field situation it is a requirement under Nitrates regulations that they should not be within 20m of a watercourse or a drain. Where bales are stored in a yard there should be facilities to collect any effluent. If the bales are stored in a field this may require fencing off the bales from livestock. In any event they should be protected from bird damage. Methods for this include use of nets, tyres, painting with water based paint or using wind streamers to discourage birds. Consideration should also be given to damage from cats and rodents. Over the course of the year bales should be inspected regularly and if damage occurs it can be repaired by silage tape.

Kevin O'Sullivan, Teagasc Adviser



Comhairle Contae Chill Mhantáin
Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development

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Suíomh / Website: www.wicklow.ie

26th July 2024

Robert McCoy
Ballinteskin House
Wicklow
Co. Wicklow

RE: EX 60/2024

A Chara

In respect of your query under Section 5 of the Planning and Development Act 2000 (as amended), received on 4th July 2024 in order to fully assess the Section 5 query, you are requested to submit further details concerning the proposed development, as follows:

- a) A site layout plan, scaled to enable measurements to be taken, showing:
 - The site area of the existing yard and proposed extension
 - The distance between the existing/proposed yard and the public road
- b) Details of any existing and proposed effluent storage. Note: these should be adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
- c) Confirmation of the extent of the area over which 'shale' or other hardcore is to be laid.

Mise, le meas

NICOLA FLEMING,
STAFF OFFICER,
PLANNING, ECONOMIC & RURAL DEVELOPMENT





**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

Section 5 – Application for declaration of Exemption Certificate

TO: Fergal Keogh SE
FROM: Suzanne White SEP
REF: EX60/2024
DECISION DUE DATE: 31/07/2024
APPLICANT: ROBERT MCCOY
DEVELOPMENT: EXTENSION TO EXISTING AGRICULTURAL YARD AREA
LOCATION: BALLINTESKIN, CO. WICKLOW

Planning History

Application site: none identified

Landholding:

08/1421: permission granted to Maura McCoy for “revised site boundaries, retention of relocated effluent treatment system and replacement of septic tank with a new treatment system unit to previously granted permission ref number 00/3516”

08/565: permission granted to Robery McCoy Jnr for “bungalow, garage, effluent treatment system and site ancillary works”

06/5901: permission refused to Robert McCoy for “Relocation of previously approved sewage treatment plant”

00/3516: permission granted to Maura McCoy for “Conversion of out house into two agritourist holiday homes and septic tanks”

Section 5’s

None identified on iPlan

Unauthorised development

1no. case (UD2391) relating to wider landholding: closed

Question

The applicant has applied to see whether or not the following is or is not development and exempted development (proposed description reworded):

“proposed doubling in size of existing yard for storage of silage bales”

It is stated in the application form that ‘47 load of clean shale required’, which appears to relate to the proposed hardstanding for the extended yard area.

From the submitted materials, it is not clear exactly what the footprint (sqm) of the extended yard area would be.

Development plan:

Wicklow County Development Plan 2022-2028

Landscape category:

Eastern Corridor

Watercourse:

Three Mile River is located c.430m to the south

Protected structures / archaeology:

SMRS: W102770---- Castle – unclassified is located c.220m to the southwest

Protected views and prospects:

Listed prospect no. 30 – from R750 to Arklow - prospect towards sea from coast road

Legislative Context

Planning and Development Act, 2000 (as amended):

Section 2

Agriculture: “includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur or for the purpose of its use in farming of the land). The training of horses, the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardening and nursery grounds and agricultural shall be construed accordingly”.

“development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly;

“exempted development” has the meaning specified in section 4;

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and— (a) where the context so admits, includes the land on, in or under which the structure is situate, and (b) in relation to a protected structure or proposed protected structure, includes— (i) the interior of the structure, (ii) the land lying within the curtilage of the structure, (iii) any other structures lying within that curtilage and their interiors, and (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon;

“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.

Section 3(1) of the Act states the following in respect of 'development':

"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."

Section 4 sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act.

Section 4 (1) (a)

"development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;"

Section 4(2) makes provision for ministerial regulations to set out further exemptions. The 2001 Planning Regulations as amended derive from this section and designate further works as being exempted development for the purposes of the act.

Section 4(3); A reference in this Act to exempted development shall be construed as a reference to development which is—

- a) any of the developments specified in subsection (1), or
- b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.

Section 4 (4) Notwithstanding *paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2)*, development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Planning and Development Regulations 2001 (as amended)

Article 6 (3)

Subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), 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.

Article 9 (1) Restrictions on exemption

Article 9 sets out a number of restrictions on exemptions under Article 6. The most relevant restrictions to the case are set out below:

9 (1) (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,

9 (1)(a)(iii) 'endanger public safety by reason of traffic hazard or obstruction of road users'

9(1)(a)(vi) "interfere with the character of the landscape or a view or prospect of special amenity value or special interest, the preservation of which is an objective of the 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”.

9 (1)(a)(viiB) “comprise the development in relation to which a Planning Authority or An Bord Pleanála is the competent authority in relation to an 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”.

9 (1) (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,

Schedule 2, Part 3 outlines classes of exempt development in the rural area as well as associated conditions and limitations. Schedule 2, Part 3, Class 8 is of relevance.

Agricultural Structures	
Class 8	
Works consisting of the provision of roofless cubicles, open loose yards, selffeed silo or silage areas, feeding aprons, assembly yards, milking parlours or structures for the making or storage of silage or any other structures of a similar character or description, having an aggregate gross floor space not exceeding 200 square metres, and any ancillary provision for effluent storage.	<ol style="list-style-type: none"> 1. No such structure shall be used for any purpose other than the purpose of agriculture. 2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate. 3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution. 4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road. 5. No such structure within 100 metres of any public road shall exceed 8 metres in height. 6. No such structure shall be situated, and no effluent from such structure shall be stored, 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. 7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

Assessment

Is or is not development

The proposal would involve ‘works’ and therefore the proposal does constitute development.

Is or is not exempted development

It is considered that the proposed development would come within the description of development for 'silage areas' in Class 8. With regard to the conditions and limitations under that Class, these are considered in turn:

1. Complies
2. The gross floor space of the existing and proposed silage areas is not stated. The development would be located more than 100m from the main farmyard complex. The silage storage area would form a separate farmyard.
3. No details of effluent storage facilities have been submitted.
4. Not clear from the plans submitted whether the yard and any effluent from same would be within 10 metres of a public road
5. Complies
6. Complies
7. Not applicable

Article 9

The restrictions on exemption, as noted above, have been considered in relation to this case.

Based on aerial photography and streetview imagery, it appears that there has been an agricultural entrance to the site for some time, at least 1996, though it may have been widened more recently.

It is also noted that the existing yard area, which is in use for the storage of silage, appears to extend to more than 200sqm, measured from online mapping. Historic aerial photography (dated 2001 and 2006) indicates that the land may have been in use for disposal of topsoil, or a similar activity. Photography from 2013 onwards shows agricultural use. However, it is noted that the existing yard area for silage storage and the access lane to it appear after 2006, according to the aerial photography. The laneway appears to be unsurfaced. On the basis of the foregoing, it is not clear that the existing yard is authorised.



Image above: MapGenie Imagery 1996



Image above: MapGenie Imagery 2006



Image above: Google Streetview 2009

Recommendation

With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether:

“proposed doubling in size of existing yard for storage of silage bales”

is or is not development, and is or is not exempted development.

The Planning Authority considers that:

The *“proposed doubling in size of existing yard for storage of silage bales”*

IS development, however, due to insufficient details submitted, further information is required in order for an assessment to be made.

Recommendation: FURTHER INFORMATION

1. In order to fully assess the Section 5 query, you are requested to submit further details concerning the proposed development, as follows:

- a) A site layout plan, scaled to enable measurements to be taken, showing:
 - The site area of the existing yard and proposed extension
 - The distance between the existing/proposed yard and the public road

- b) Details of any existing and proposed effluent storage. Note: these should be adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.

- c) Confirmation of the extent of the area over which 'shale' or other hardcore is to be laid.



Suzanne White SEP

26/07/2024



**Comhairle Contae Chill Mhantáin
Wicklow County Council**

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development**

Áras An Chontae / County Buildings
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Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco.ie
Suíomh / Website: www.wicklow.ie

MEMORANDUM

WICKLOW COUNTY COUNCIL

**TO: Suzanne White
Senior Executive Planner**

**FROM: Nicola Fleming
Staff Officer**

**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX60/2024**

I enclose herewith application for Section 5 Declaration received completed on 04/07/2024.

The due date on this declaration is 31st July 2024.

**Staff Officer
Planning Development & Environment**





Comhairle Contae Chill Mhantáin
Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development

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Suíomh / Website: www.wicklow.ie

Robert McCoy
Ballinteskin House
Wicklow
Co. Wicklow

9th July 2024

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX60/2024

A Chara

I wish to acknowledge receipt of your application and details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 31st July 2024.

Mise, le meas

Nicola Fleming
Staff Officer
Planning, Economic & Rural Development



Wicklow County Council
County Buildings
Wicklow
0404-20100

04/07/2024 11 05 46

Receipt No L 110/331421

***** RE-PRINT *****

ROBERT MCCOY
BALLINTESKIN HOUSE
WICKLOW

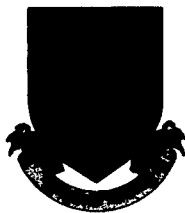
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GOODS	80 00
VAT Exempt/Non-vatable	

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APPLICATION FORM FOR A
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &
DEVELOPMENT ACTS 2000(AS AMENDED) AS TO WHAT IS OR IS NOT
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT

1. Applicant Details

(a) Name of applicant: ROBERT MCCOY
Address of applicant: BALLINTESKIN HOUSE,
WICKLOW CO. WICKLOW.

Note Phone number and email to be filled in on separate page.

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) N/A.
Address of Agent : _____

Note Phone number and email to be filled in on separate page.

WICKLOW COUNTY COUNCIL
04 JUL 2024
PLANNING DEPT.

3. Declaration Details

i. Location of Development subject of Declaration BALLINTESKIU,
(REFER TO MAP FOR SITE).

ii. Are you the owner and/or occupier of these lands at the location under i. above?
Yes/ No. yes.

iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier _____

iv. Section 5 of the Planning and Development Act provides that : If any question arises as to what, in any particular case, is or is not development and is or is not exempted development, within the meaning of this act, any person may, an payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question. You should therefore set out the query for which you seek the Section 5 Declaration THE DEPARTMENT OF AGRICULTURE REQUIRE SILAGE BALES TO BE STACKED 2 HEIGHT, FORMALLY 3 HEIGHT. THERE IS AN EXISTING YARD THERE IM LOOKING AT DOUBLING THE SIZE TO ACCOMODATE NEW SILAGE RULES!

Additional details may be submitted by way of separate submission.

v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration _____

Additional details may be submitted by way of separate submission.

vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure) ? NO

vii. List of Plans, Drawings submitted with this Declaration Application _____

PLEASE REFER TO MAP.

47 LOAD OF CLEAN SHALE REQUIRED.

viii. Fee of € 80 Attached ? _____

Signed

Robert McCoy

Dated :

4 July 24.

Additional Notes :

As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below :

A. Extension to dwelling - Class 1 Part 1 of Schedule 2

- Site Location Map
- Floor area of structure in question - whether proposed or existing.
- Floor area of all relevant structures e.g. previous extensions.
- Floor plans and elevations of relevant structures.
- Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.

B. Land Reclamation -

The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still

governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 2000(as amended) there is a certification process with respect to land reclamation works as set out under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 S.I. 456 of 2011. You should therefore seek advice from the Department of Agriculture, Fisheries and Food.

Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

- Site layout plan showing location of structure and any adjoining farm structures and any dwellings within 100m of the farm structure.
- Gross floor area of the farm structure
- Floor plan and elevational details of Farm Structure and Full details of the gross floor area of the proposed structure.
- Details of gross floor area of structures of similar type within the same farmyard complex or within 100metres of that complex.



Tailte Éireann

Clárúcháin, Luacháil, Suirbhéireacht Registration, Valuation, Surveying

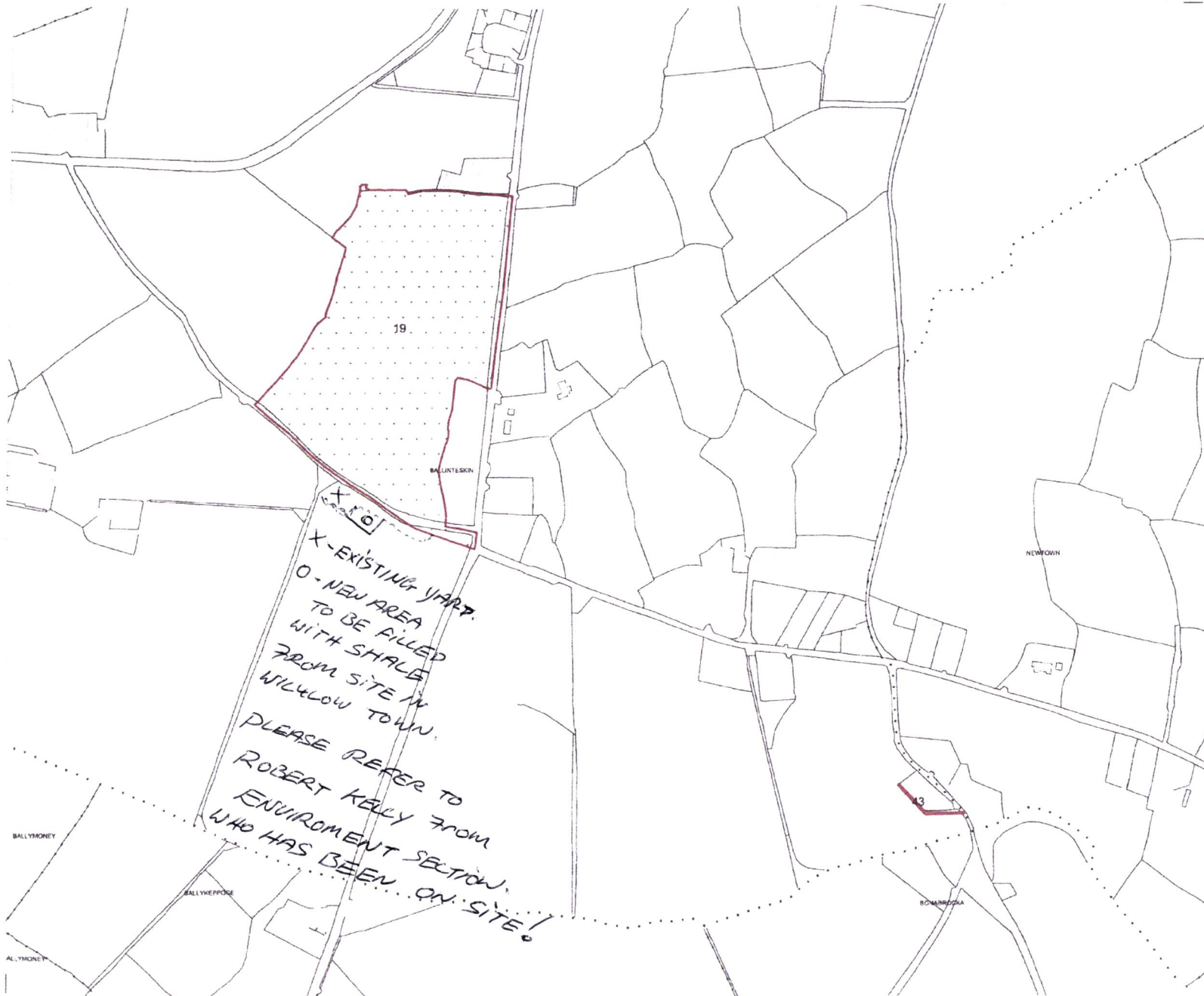
Folio: WW9684F

This map should be read in conjunction with the folio.

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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

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.



730350 mE, 691550 mN



Tailte Éireann

Clárúcháin, Luacháil, Surfhéireacht, Registration, Valuation, Surveying

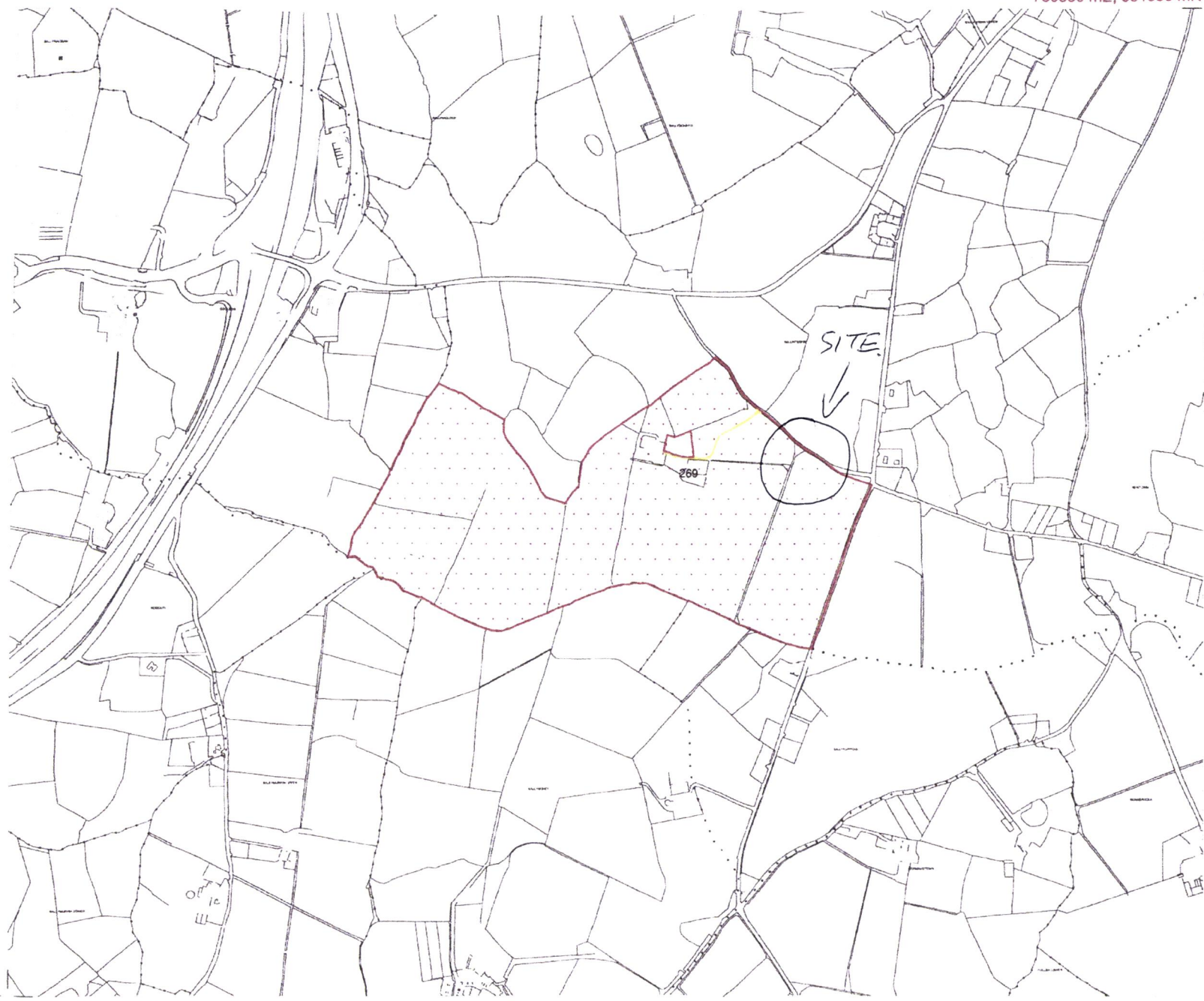
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An Roinn Talmhaíochta,
Bia agus Mara
Department of Agriculture,
Food and the Marine

For Basic Payment Scheme, Areas of Natural Constraint
Scheme and other Area Based Scheme purposes only
Year: 2021 Scale: 1:6000

Name: ROBERT MCCOY
Address: BALLINTESKIN HOUSE
BALLINTESKIN
WICKLOW
CO WICKLOW

Townland Code: Z14803
Townland Name: BALLINTESKIN

Parcel	Digitised	MEA*	Claimed
Z1480300034	0.21	0	0
Z1480300054	6.3	6.22	6.13

Exclusions	Parcel	Excl	Area	Red%	Elig	Type
Z1480300054	0021	0.08	100	0	Stream	

Ortho Used: COL_ORTHO_FULL_COV

All areas displayed above are in hectares
* MEA calculation available online via agfood.ie

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Z1480707

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