

Comhairle Contae Chill Mhantáin
Wicklow County Council

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

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

Aidan Kelly

20th June 2024

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX38/2024 – Orla McClean

A Chara,

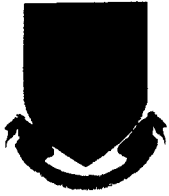
I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

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 ECONOMIC & RURAL DEVELOPMENT





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DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT
ACT 2000 AS AMENDED

Applicant: Orla McClean

Location: Aughrim Upper, Aughrim, Co. Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PERD/862/2024

A question has arisen as to whether "Loose shed (for cattle), 2. Yard area, 3. Crush yard, 4. Storage shed (for feed and hay)" at Aughrim Upper, Aughrim, Co. Wicklow is or is not exempted development.

Having regard to:

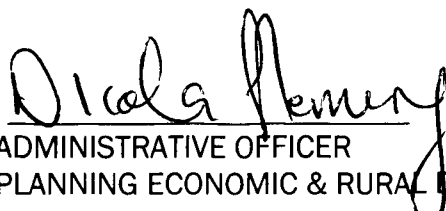
- The details submitted with the Section 5 Declaration;
- County Development Plan 2022-2028 designations i.e. The Area of High Amenity Transitional Area, and listed prospect No. 56;
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);
- Article 6, 9 Schedule 2, Part 3, (Classes 6, 8 and 9), of the Planning and Development Regulations 2001 (as amended);
- Existing trees / vegetation.

Main Reasons with respect to Section 5 Declaration:

- The construction of an agricultural development (1. loose shed, 2. yard area, 3. crush yard, 4. storage shed) is considered to be works and would constitute development, having regard to Section 3 of the Planning and Development Act 2000(as amended).
- The 1. loose shed, 2. yard area, 3. crush yard, 4. storage shed would respectively come within the descriptions/limitations set out under Classes 6,, 8 and 9: Part 3 of Schedule 2 of the Planning and Development Regulations 2001(as amended).
- Given that access to the agricultural development (i.e. 1. loose shed, 2. yard area, 3. crush yard, 4. storage shed) will be by way of an existing laneway, that the structures are not within or adjoining any Natura 2000 site, and would, given the scale/ finishes, distance and retained trees not impact on any listed views/ prospects or on the landscape at this point, there is nothing in Article 9 which would be applicable to such works.

The Planning Authority considers that "Loose shed (for cattle), 2. Yard area, 3. Crush yard, 4. Storage shed (for feed and hay)" at Aughrim Upper, Aughrim, Co. Wicklow **is development and is exempted development**

Signed:


ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated 20th June 2024

Ta an doic lead seo ar fáil i bhformáid eile ar iarrtas
This document is available in alternative formats on request

Ba chóir gach comhfhreagras a sheoladh chuig an Stúirthóir Seirbhísí, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development.



WICKLOW

WICKLOW COUNTY COUNCIL
PLANNING & DEVELOPMENT ACTS 2000 (As Amended)

SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/862/2024

Reference Number: EX38/2024

Name of Applicant: Orla McClean

Nature of Application: Section 5 Referral as to whether or not “1. Loose shed (for cattle), 2. Yard area, 3. Crush yard, 4. Storage shed (for feed and hay)” is or is not development and is or is not exempted development.

Location of Subject Site: Aughrim Upper, Aughrim, Co. Wicklow

Report from Chris Garde, EP & Suzanne White, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether “Loose shed (for cattle), 2. Yard area, 3. Crush yard, 4. Storage shed (for feed and hay)” at Aughrim Upper, Aughrim, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Having regard to:

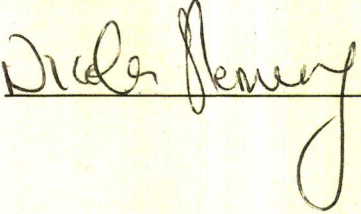
- a) The details submitted with the Section 5 Declaration;
- b) County Development Plan 2022-2028 designations i.e. The Area of High Amenity Transitional Area, and listed prospect No. 56;
- c) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);
- d) Article 6, 9 Schedule 2, Part 3, (Classes 6, 8 and 9), of the Planning and Development Regulations 2001 (as amended);
- e) Existing trees / vegetation.

Main Reason with respect to Section 5 Declaration:

- i. The construction of an agricultural development (1. loose shed, 2. yard area, 3. crush yard, 4. storage shed) is considered to be works and would constitute development, having regard to Section 3 of the Planning and Development Act 2000(as amended).
- ii. The 1. loose shed, 2. yard area, 3. crush yard, 4. storage shed would respectively come within the descriptions/limitations set out under Classes 6,, 8 and 9: Part 3 of Schedule 2 of the Planning and Development Regulations 2001(as amended).
- iii. Given that access to the agricultural development (i.e. 1. loose shed, 2. yard area, 3. crush yard, 4. storage shed) will be by way of an existing laneway, that the structures are not within or adjoining any Natura 2000 site, and would, given the scale/ finishes, distance and retained trees not impact on any listed views/ prospects or on the landscape at this point, there is nothing in Article 9 which would be applicable to such works.

Recommendation:

The Planning Authority considers that "Loose shed (for cattle), 2. Yard area, 3. Crush yard, 4. Storage shed (for feed and hay)" at Aughrim Upper, Aughrim, Co. Wicklow is development and is exempted development as recommended in the report by the SEP.

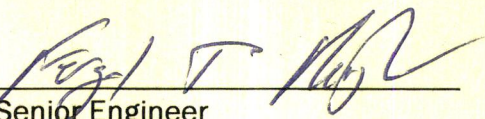
Signed 

Dated 20th day of June 2024

ORDER:

I HEREBY DECLARE:

That "Loose shed (for cattle), 2. Yard area, 3. Crush yard, 4. Storage shed (for feed and hay)" at Aughrim Upper, Aughrim, Co. Wicklow is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed: 
Senior Engineer
Planning, Economic & Rural Development

Dated 26th day of June 2024

WICKLOW COUNTY COUNCIL

Planning Department

Section 5 – Application for declaration of Exemption Certificate

TO: Fergal Keogh SE, Edel Bermingham SEP, Suzanne White SEP.
FROM: Chris Garde EP.
REF: EX38/2024
DECISION DUE DATE: 11/03/2024
APPLICANT: ORLA MCCLEAN
DEVELOPMENT: 1. SHED AREA, 2. YARD AREA, 3. CRUSH AREA
LOCATION: AUGHRIM UPPER, AUGHRIM, CO. WICKLOW
EXEMPTION QUERY
(actual): 1. Shed Area (Class 6: 197sqm);
2. Yard Area (Class 8: 83sqm);
3. Crush Area (Class 8: 115sqm);
4. Storage Shed Area (Class 9: 152sqm)

This application has been subject to a further information request. This report should be read in conjunction with the previous planning reports.

Further Information was requested as follows:

Item 1

1. A cover letter describing the development proposed. Please include the following in your response:
 - a) The proposed use of each of the agricultural units included in the proposed development;
 - b) Whether improvements to access route are required i.e. road and entrance upgrades;
 - c) Details of finishes and colour of the proposed structures i.e. shed, effluent storage tank and cattle crush;
 - d) Specify whether the fourth structure (Storage Shed Class 9: 152sqm) is being applied for under this Section 5 exemption application. If not the structure should be omitted from the drawings. If the structure is being applied for please also specify the finishes and colour of Storage Shed Class 9: 152sqm;
 - e) The lands appear to be part of a larger landholding, please indicate if the proposed development is part of a larger agricultural concern/farmyard.

Response

The applicant has submitted a cover letter describing the development proposed and an edited land registry map. Following a phone call seeking clarity with regard to some clerical errors, the agent submitted a revised cover letter better describing the development proposed. The applicant communicates that:

1. A. The proposed use of each of the agricultural units included in the proposed development follows:
 - i. Shed A – loose shed to winter cattle;
 - ii. Yard Area and effluent tank comply with Department of Agriculture Regulations;
 - iii. Crush Area – to work with cattle safely (a requirement of the Department of Agriculture Regulations);
 - iv. Storage Shed Area – to store feed hay and straw.

- B. There will be no need to improve existing access roadway/entrance;
- C. The details of finishes and colour of the proposed structures i.e. shed, effluent storage tank and cattle crush are proposed development follows:

"The sheds will be steel structure with mass concrete walls and covered with metal tin roof and side sheeting. The metal that will be visible will be green in colour. There will be no unpainted metal to be used.

The Effluent tank will be under the ground and not visible and will be made of pre cast concrete. The cattle crush will be galvanised steel structure and concrete."

- D. The Storage Shed (Class 9: 152sqm) is being applied for under this Section 5 exemption application. The finishes and colour of Storage Shed are specified to be – grey concrete and metal sheeting will be green in colour;
- E. The lands changed ownership in 2021 and updates to land registry records are not complete. The applicant provides an edited land registry map that shows the extent of the current land holding.

Assessment

The agent was contacted regarding their response and written reply was submitted immediately to clarify details. These details are listed above i.e. that there is no "meat shed" and that the circular tank would be grey concrete buried underground as indicated with the dashed red circular line on Dwg No.s 01 and 02.

Taking the applicant's response and intentions as being bona fide the overall response is acceptable.

Item 2

- 2. *Schedule 2, Part 3 sets out classes of exempted development in the rural area. Insufficient information is provided to satisfy the conditions and limitations of Class 6 and 8. Further information is required to show that the effluent storage facilities are adequate for both the Class 6 and 8 developments.*

Response

The applicant's response in the cover letter clarifies that:

"All building / structures class 6 & class 8 will be in compliance with all department of agriculture regulations."

Assessment

The applicant had submitted a cover letter describing the development proposed. Following a phone call seeking clarity with regard to some clerical errors, the agent submitted a revised cover letter better describing the development proposed and that all structures comply with Department of Agriculture Regulations.

Taking the applicant's response and intentions as being bona fide the overall response is acceptable.

Conclusion

The proposed development appears to meet the conditions and limitations of Class 31 and Class 13.

Recommendation:

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

Erection of

1. LOOSE SHED (for cattle), **2. YARD AREA**, **3. CRUSH YARD**, **4. STORAGE SHED** (for feed and hay) at Aughrim Upper, Aughrim, Co. Wicklow,

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The Planning Authority consider that **1. LOOSE SHED** (for cattle), **2. YARD AREA**, **3. CRUSH YARD**, **4. STORAGE SHED** (for feed and hay) at Aughrim Upper, Aughrim, Co. Wicklow.

is development and is exempted development.

Main Considerations with respect to Section 5 Declaration:

- a) The details submitted with the Section 5 Declaration;
- b) County Development Plan 2022-2028 designations i.e. The Area of High Amenity Transitional Area, and listed prospect No. 56;
- c) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);
- d) Article 6, 9 Schedule 2, Part **3**, (Classes 6, 8 and 9), of the Planning and Development Regulations 2001 (as amended);
- e) Existing trees / vegetation.

Main Reasons with respect to Section 5 Declaration:

- i. The construction of an agricultural development (1. loose shed, 2. yard area, 3. crush yard, 4. storage shed) having regard to Section 3 of the Planning and Development Act 2000(as amended). *is ~~not~~ considered to be works and would constitute development,*
- ii. The 1. loose shed, 2. yard area, 3. crush yard, 4. storage shed would respectively come within the descriptions/limitations set out under Classes 6, ~~8~~, 8 and 9: Part 3 of Schedule 2 of the Planning and Development Regulations 2001(as amended).
- iii. Given that access to the agricultural development (i.e. 1. loose shed, 2. yard area, 3. crush yard, 4. storage shed) will be by way of an existing laneway, that the structures are not within or adjoining any Natura 2000 site, and would, given the scale/ finishes, distance and retained trees, not impact on any listed views/ prospects or on the landscape at this point, there is nothing in Article 9 which would be applicable to such works.



Chris Garde
Executive Planner
Date: 17/06/2024

Agreed as amended
Julie SSP
19/6/24

Issue declaration
recommended
Reg/T
26/6/24
Page 3 of 3

From: Nicola Fleming
Sent: 17 June 2024 15:25
To: Chris Garde
Subject: FW: EX38/2024
Attachments: preliminary drawing letter r1.pdf

From: aidan kelly [<mailto:aidankelly2000@yahoo.ie>]
Sent: Monday 17 June 2024 15:18
To: Nicola Fleming; Planning - Admin
Subject: EX38/2024

For the attention of Chris

Please find attached revised information as discussed . let me know if you need anything else

Regards Aidan Kelly

Agri Design & Planning Services

Agricultural, Commercial, Residential & Domestic

Planning Applications

Permission for Retention

Paddock & Roadway Design

Farmyard Design

Shed Designs

Site Surveys

GPS Mapping

Molough, Newcastle, Clonmel, Co Tipperary

E91 VK64

Aidan Kelly B.Arch B.sc Arch Tech B.Agr

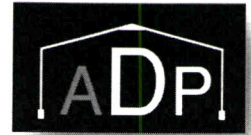
WEBSITE: <http://www.adps.ie>

Mobile 0857466211, 062 43908

aidan@adps.ie

aidankelly2000@yahoo.ie

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Molough,
Newcastle,
Clonmel,
Co. Tipperary.
17-Jun-24

EX 38/2024

Client:

Orla McClean

Address;

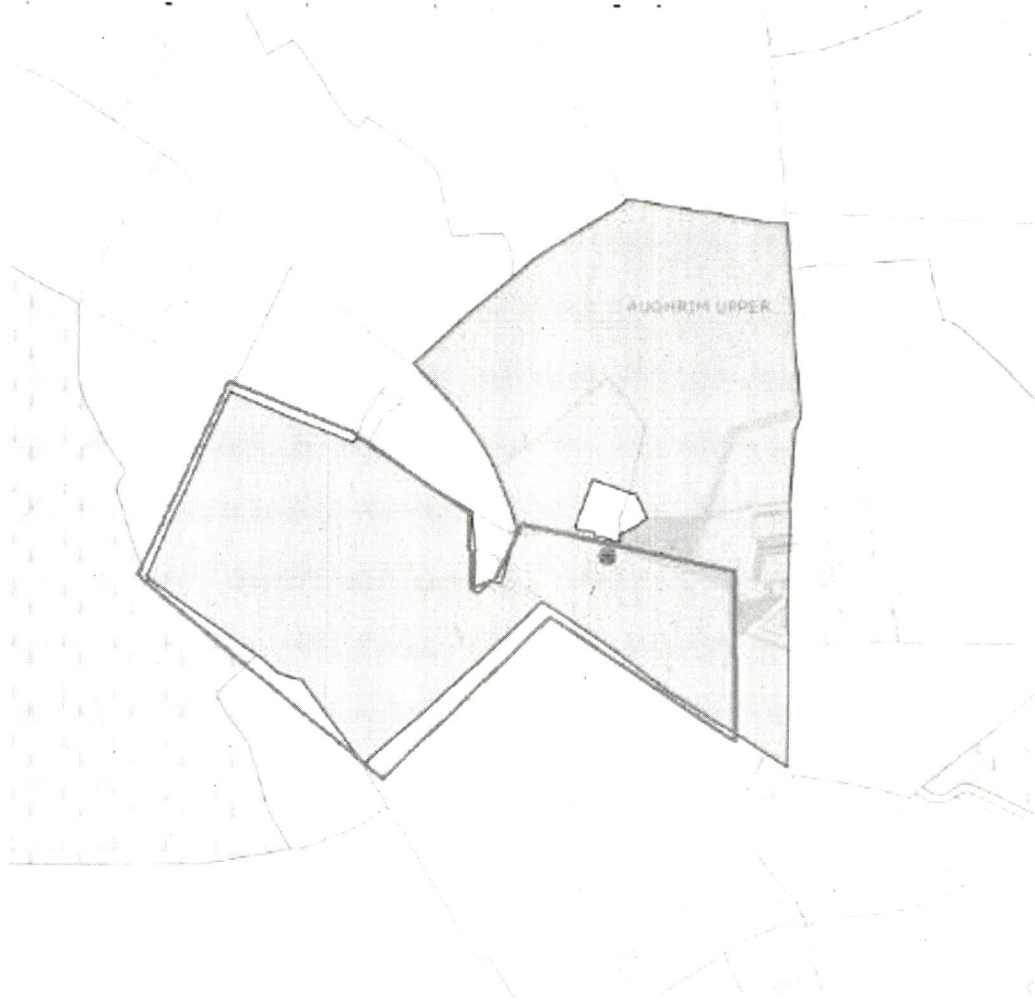
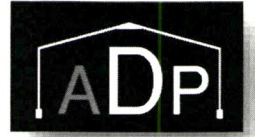
at Aughrim upper, Aughrim, Co Wicklow
Post: Cairn, Knockieran, Blessington, Co Wicklow

Proposal;

Permission to construct loose shed with storage and effluent tank and all associated site works

1.

- A. The proposed loose shed(A) is to winter cattle on Orla farm. This shed will be straw bedded and has concrete apron & a effluent tank to comply with all department of agriculture regulations. The crush yard assembly area(C) is required to work the cattle safety and this is a requirement from department of agriculture regulations. The storage shed(D) is to store the feed hay and straw.
- B. There will be no need to improvement existing access roadway/ entrance as only used by farm machinery
- C. The sheds will be steel structure with mass concrete walls and covered with metal tin roof and side sheeting. The metal that will be visible will be green in colour. There will be no unpainted metal to be used.
- D. The Effluent tank will be under the ground and not visible and will be made of pre cast concrete. The cattle crush will be galvanised steel structure and concrete
- E. Yes storage shed is been applied for as class 9 . The storage shed will be mass concrete walls and covered with metal tin roof and side sheeting. the colour of the sheeting will be Green in colour.
- F. Lands changed ownership in 2021. Updates to land registry has not been completed. land surrounded by Blue is in our ownership. Please see reference map below



2.

All building / structures class 6 & class 8 will be in compliance with all department of agriculture regulations

Any other question please contact me at 085 7466211.

Regards

A handwritten signature in black ink that reads 'Aidan Kelly'. The signature is written in a cursive, flowing style.

Aidan Kelly B.Arch B.sc Arch Tech B.Agr

Agricultural
Planning Applications
Farmyard Design
Mobile 0857466211

Commercial
Permission for Retention
Shed Designs/layouts
www.adps.ie

Residential/ Domestic
Site Surveys & Gps mapping
Paddock & Roadway Design
aidankelly2000@yahoo.ie



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MEMORANDUM

WICKLOW COUNTY COUNCIL

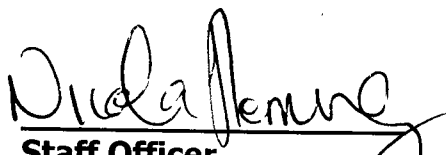
TO: Chris Garde
Executive Planner

FROM: Nicola Fleming
Staff Officer

RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX38/2024

I enclose herewith application for Section 5 Declaration received 2nd April 2024 along with further information received on 10th June 2024.

The due date on this declaration is 30th June 2024.


Staff Officer
Planning Development & Environment





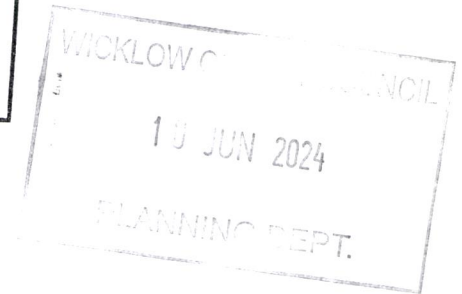
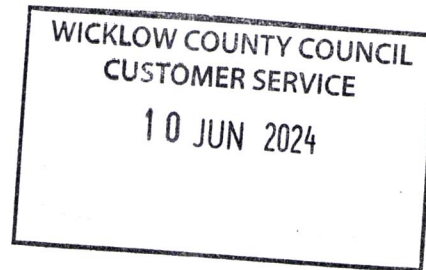
Molough,
Newcastle,
Clonmel,
Co. Tipperary.
7-Jun-24

EX 38/2024

Client:
Orla McClean

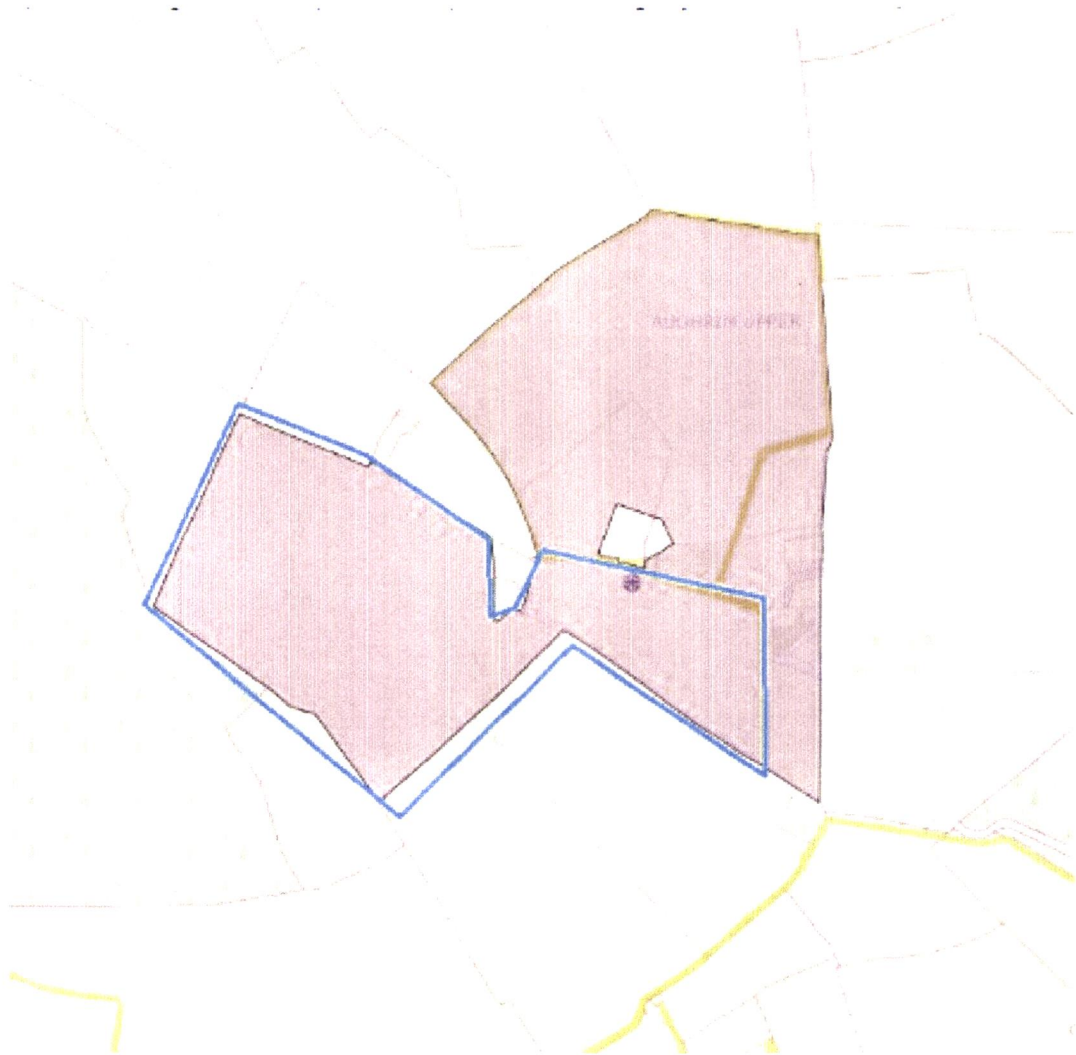
Address;
at Aughrim upper, Aughrim, Co Wicklow
Post: Cairn, Knockieran, Blessington, Co Wicklow

Proposal;
Permission to construct loose shed with storage and effluent tank and all associated site works



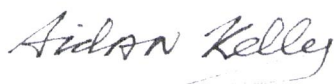
1.

- A. The proposed loose shed(A) is to winter cattle on Orla farm. This shed will be straw bedded and has concrete apron & a effluent tank to comply with all department of agriculture regulations. The crush yard assembly area(C) is required to work the cattle safety and this is a requirement from department of agriculture regulations. The storage shed(D) is to store the feed hay and straw.
- B. There will be no need to improvement existing access roadway/ entrance as only used by farm machinery
- C. The shed will be steel structure with mass concrete walls and covered with metal tin roof and side sheeting. the colour of the sheeting will be Green in colour. the concrete will be Gray in colour and the meat shed will be Gray in colour. Effluent will be under the ground and will be pre cast concrete. The cattle crush will be galvanised steel structure and concrete
- D. Yes storage shed is been applied for as class 9 . The storage shed will be mass concrete walls and covered with metal tin roof and side sheeting. the colour of the sheeting will be Green in colour.
- E. Lands changed ownership in 2021. Updates to land registry has not been completed. land surrounded by Blue is in our ownership. Please see reference map below



Any other question please contact me at 085 7466211.

Regards

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Suíomh / Website: www.wicklow.ie

27/05/2024

Aidan Kelly

RE: EX 38/2024 for Orla McClean at Aughrim Upper, Aughrim, Co. Wicklow

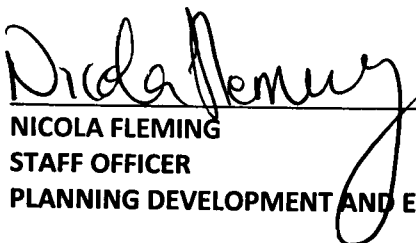
A Chara

In respect of you query under Section 5 of the Planning and Development Act 2000(as amended), received on 2nd May 2024 in order to fully assess if the proposed development comes within the scope of Schedule 2, Part 1, Class 2(c) the following information is required:-

1. A cover letter describing the development proposed. Please include the following in your response:
 - a) The proposed use of each of the agricultural units included in the proposed development;
 - b) Whether improvements to access route are required i.e. road and entrance upgrades;
 - c) Details of finishes and colour of the proposed structures i.e. shed, effluent storage tank and cattle crush;
 - d) Specify whether the fourth structure (Storage Shed Class 9: 152sqm) is being applied for under this Section 5 exemption application. If not the structure should be omitted from the drawings. If the structure is being applied for please also specify the finishes and colour of Storage Shed Class 9: 152sqm;
 - e) The lands appear to be part of a larger landholding, please indicate if the proposed development is part of a larger agricultural concern/farmyard.

2. Schedule 2, Part 3 sets out classes of exempted development in the rural area. Insufficient information is provided to satisfy the conditions and limitations of Class 6 and 8. Further information is required to show that the effluent storage facilities are adequate for both the Class 6 and 8 developments.

Mise, le meas


NICOLA FLEMING
STAFF OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT.

Tá an doiciméad seo ar fáil i bhformáidí eile ar iarratas.
This document is available in alternative formats on request.

Ba chóir gach comhfhreagras a sheoladh chuig an Stiúrthóir Seirbhísí, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe.
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development.





WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT

Section 5 – Application for declaration of Exemption Certificate

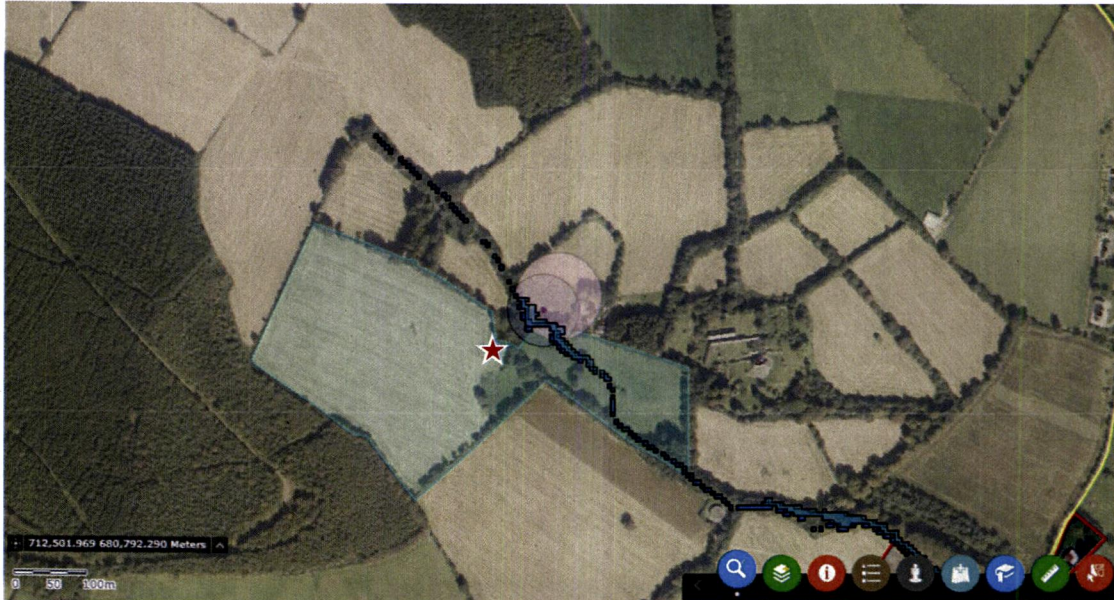
TO: Fergal Keogh SE, Edel Bermingham SEP, Suzanne White SEP.
FROM: Chris Garde EP.
REF: EX38/2024
DECISION DUE DATE: ~~11/03/2024~~ 29/05/2024
APPLICANT: ORLA MCCLEAN
DEVELOPMENT: 1. SHED AREA, 2. YARD AREA, 3. CRUSH AREA
LOCATION: AUGHRIM UPPER, AUGHRIM, CO. WICKLOW
EXEMPTION QUERY
(actual):
1. Shed Area (Class 6: 197sqm),
2. Yard Area (Class 8: 83sqm),
3. Crush Area (Class 8: 115sqm)

The site

Agricultural field, Aughrim Upper, Aughrim, Co. Wicklow

Aerial Maps Image:

Showing red star/cyan outline for subject site. SMR (red dot and circular pink buffer (radius 50m)) to the northeast. Blue dotted line shows line of flood Zones A and B. Local roads shown as yellow lines, Aughrim Settlement boundary (located to the southeast) is shown with a red line:



Planning History

Applications

None identified on iPlan

Section 5's

None identified on iPlan

Unauthorised development

None identified on iPlan

Question

The applicant has applied to see whether or not the following is or is not development and exempted development:

- 1. *Shed Area (Class 6: 197sqm),*
- 2. *Yard Area (Class 8: 83sqm),*
- 3. *Crush Area (Class 8: 115sqm).*

The above are detailed in drawings (plans and elevation). In addition, another building is also detailed in the drawings submitted, but not applied for under this Section 5 exemption application:

- 4. *Storage Shed (Class 9: 152sqm).*

An Effluent Storage Tank (“pre-cast” and “2,500 gallon”) that is estimated to be c.7sqm in area appears to be ancillary to 1. *Shed Area (Class 6).*

The finishes and colour of all above are not detailed.

Development plan:

Wicklow County Development Plan 2022-2028

Landscape category:

3(e) – Area of High Amenity Transitional Area (AHA)

Dwelling (nearest):

Snowdrop Cottage is indicated as being located c.27m to the northeast from the proposed development.

Thistle Cottage is located c.130m to the northeast.

Watercourse:

Watercourse and flood zone is located c.60m to the northeast

Protected structures / archaeology:

SMRS: WI034-021---- Castle – unclassified is located c.80m to the northeast

Protected views and prospects:

Listed prospect no. 56 – from L6197 Ballycoog to Coolahullin – prospect of Aughrim River Valley is located c.3.3Km to the southeast of the subject proposal.

Legislative Context

Planning and Development Act, 2000 (as amended):

Section 2

“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 situated, 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

Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) (i) to (xii)

Schedule 2, Part 3 outlines classes of exempt development in the rural area as well as associated conditions and limitations. The following are of relevance.

Agricultural structures

- Class 6
- Class 7
- Class 8
- Class 9
- Class 10

Details submitted

Floor areas structures

- 1. Shed Area (Class 6: 197sqm),
- 2. Yard Area (Class 8: 83sqm),
- 3. Crush Area (Class 8: 115sqm).

Internal use is for housing cattle, feeding cattle and assembling cattle (not stated).

An Effluent Storage Tank (“pre-cast” and “2,500 gallon”) that is estimated to be c.7sqm in area appears to be ancillary to 1. Shed Area (Class 6).

The Shed has a ground to ridge height is c.6.5m, with what appears to be external cladding and concrete or cement rendered blockwork for portion of same. The finishes and colour of all above are not detailed.

No other details regarding this proposed development are provided i.e. surface water soakaway trench. The main shed does not appear to be slatted.

Another building is also detailed in the drawings submitted, but not applied for under this Section 5 exemption application:

- 4. Storage Shed (Class 9: 152sqm).

Assessment

Is or is not development

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

Is or is not exempted development

The Regulation set out exemptions.

Schedule 2, Part 3, Class 3, 6, 8 and 9 are of relevance.

CLASS 3 (Minor works and structures)

Works relating to the construction or maintenance of any gully, drain, pond, trough, pit or culvert, the widening or deepening of watercourses, the removal of obstructions from watercourses and the making or repairing of embankments in connection with any of the foregoing works.

CLASS 6 (Agricultural structures)

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

Consideration: This application is for the construction of a roofed structure for housing of cattle and has gross floor area below 200sqm (197sqm) and has ancillary effluent storage.

Conditions / limitations

1. No such structure shall be used for any purpose other than the purpose of agriculture.

Consideration: The structure is identified as a loose shed (CLASS 6 (which refers to Agricultural structures). A specific cover letter would have been welcomed describing the proposed development.

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.

Consideration: complies

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.

Consideration: Details of effluent storage tank provided. Soakaway for storm water is not shown. Unclear if is of adequate size and location or constructed in line with Dept. requirements to avoid water pollution. Further information would be required.

4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.

Consideration: complies.

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

Consideration: complies.

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.

Consideration: complies (*consent in writing of the owner*).

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

Consideration: Details of shed provided, however, the finishes and colour of all above are not detailed. Further information would be required.

CLASS 8 (Agricultural Structures)

*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*

Consideration: This application is for the construction of a roofed structure for managing cattle and has gross floor area below 200sqm (197sqm*).

*Sum total of:

- 2. Yard Area (Class 8: 83sqm),
- 3. Crush Area (Class 8: 115sqm).

1. No such structure shall be used for any purpose other than the purpose of agriculture.

Consideration: complies

2. The gross floor space of such structures 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.

Consideration: complies

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 the Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.

Consideration: Unclear if is of adequate size and location or constructed in line with Dept. requirements to avoid water pollution. Additional information required.

4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.

Consideration: complies

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

Consideration: Cattle crush area appears to be fencing and gates c.1.8m 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.*

Consideration: complies

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

Consideration: Limited details of cattle crush provided, however, the finishes and colour of above are not detailed. Further information would be required.

CLASS 9 (Agricultural Structures)

Another building is also detailed in the drawings submitted, but not applied for under this Section 5 exemption application:

- 4. *Storage Shed (Class 9: 152sqm).*

While its height and location is specified, the finishes and colour of above are not detailed.

Further information is required regarding the inclusion of the structure in the application.

Article 9

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) to (iv)

Consideration:

Items (i) to (iv) have been considered. Item (vi) is as follows:

(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,

The Wicklow County Council Development Plan 2022-2028 includes the following objective:

CPO 17.38 To protect listed views and prospects from development that would either obstruct the view / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.

Schedule 17.12 Prospects of Special Amenity Value or Special Interest:

Listed prospect no. 56 – from L6197 Ballycoog to Coolahullin – prospect of Aughrim River Valley

The site is within the Areas of High Amenity (AHA) (Transitional Lands). The CDP includes the following objective:

CPO 17.35 All development proposals shall have regard to the County landscape classification hierarchy in particular the key landscape features and characteristics identified in the Wicklow Landscape Assessment (set in Volume 3 of the 2016 County Development Plan) and the 'Key Development Considerations' set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment.

Appendix 5, Wicklow CDP 2016, 4.5 Wicklow's Landscape Areas, 3(e) – Area of High Amenity Transitional Area:

The Area of High Amenity Transitional Area comprise of lands which act as a natural buffer and provide a clear distinction between the less sensitive landscapes within the County and the landscape areas identified as Areas of Outstanding Natural Beauty. These lands are located at Manor Kilbride, south of Hollywood moving towards Donard and lands extending from the Glen of Imaal towards Aughrim.

The site is within a scenic AHA. It is unclear if the site is open and is visible from the Listed prospect no. 56 from the southeast. Further information will be sought in the form of photographs from the site towards the south east to establish whether the proposed structures can be seen.

Other:

Environmental impact assessment or an appropriate assessment of the development would not be required.

Recommendation

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

The construction of:

- 1. Shed Area (Class 6: 197sqm),
- 2. Yard Area (Class 8: 83sqm),
- 3. Crush Area (Class 8: 115sqm).

is or is not development, and is or is not exempted development?

The Planning Authority considers that:

The construction of

- 1. Shed Area (Class 6: 197sqm),
- 2. Yard Area (Class 8: 83sqm),
- 3. Crush Area (Class 8: 115sqm).

IS development, however, due to insufficient details and the lack of clarity precipitated by the inclusion of a fourth structure in the submitted drawings, the application requires additional information to be further considered.

Conclusion:

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

- 1. Shed Area (Class 6: 197sqm),
- 2. Yard Area (Class 8: 83sqm),
- 3. Crush Area (Class 8: 115sqm).

At an Agricultural field, Aughrim Upper, Aughrim, Co. Wicklow

The above proposal is development and that Further Information is required to determine if the proposed development is exempt development.

Recommendation:

FURTHER INFORMATION

1. In order to fully assess the section 5 query, you are requested to submit further details concerning the proposed development;

A cover letter describing the development proposed. Please include the following in your response:

- a) The proposed use of each of the agricultural units included in the proposed development;
- b) Whether improvements to access route are required i.e. road and entrance upgrades;
- c) Details of finishes and colour of the proposed structures i.e. shed, effluent storage tank and cattle crush;
- d) Specify whether the fourth structure (Storage Shed Class 9: 152sqm) is being applied for under this Section 5 exemption application, ~~and if not please explain why the drawing has been included in the application pack.~~ If the structure is being applied for please also specify the finishes and colour of Storage Shed Class 9: 152sqm;
- e) The lands appear to be part of a larger landholding, please indicate if the proposed development is part of a larger agricultural concern/farmyard.

the structure should be omitted from the drawings.

2. Schedule 2, Part 3 sets out classes of exempted development in the rural area. Insufficient information is provided to satisfy the conditions and limitations of Class 6 and 8. Further information is required to show that the effluent storage facilities are adequate for both the Class 6 and 8 developments.


Chris Garde
Executive Planner
Date: 22/05/2024

*Agreed as amended
27/5/24*

MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Chris Garde
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).
EX38/2024**

I enclose herewith application for Section 5 Declaration received 2nd April 2024.

The due date on this declaration is 29th May 2024.



Staff Officer
Planning Development & Environment



Comhairle Contae Chill Mhantáin
Wicklow County Council

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

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

7th May 2024

Aidan Kelly

Co. Tipperary

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX38/2024 for Orla McClean

A Chara

I wish to acknowledge receipt on 02/05/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 29/05/2024.

Mise, le meas

Nicola Fleming
Staff Officer
Planning, Economic & Rural Development



Wicklow County Council
County Buildings
Wicklow
0404-20100

07/05/2024 11:33:11

Receipt No L1/0/328900

ORLA MCCLEAN
AUGHRIM UPPER
AUGHRIM
CO WICKLOW

PLANNING APPLICATION FEES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total 80 00 EUR

Tendered
Credit Card 80 00
SECTION 5

Change 0 00

Issued By Cindy Driver
From Customer Service Hub
Vat reg No 0015233H



Wicklow County Council
County Buildings
Wicklow
Co Wicklow
Telephone 0404 20148
Fax 0404 69462

Office Use Only

Date Received _____

Fee Received _____

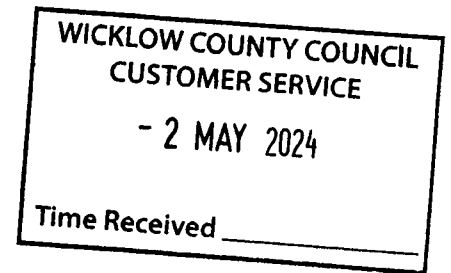
**APPLICATION FORM FOR A
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &
DEVELOPMENT ACTS 2000 (AS AMENDED) AS TO WHAT IS OR IS NOT
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

1. Applicant Details

(a) Name of applicant: Orla McClean

Address of applicant: Aughrim upper, Aughrim, Co Wicklow

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



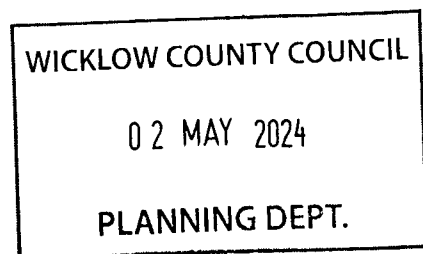
2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) Aidan Kelly

Address of Agent : Molough, Newcastle, Clonmel, Co. Tipperary.

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

3. Declaration Details



- i. Location of Development subject of Declaration____
Aughrim upper, Aughrim, Co Wicklow
- ii. Are you the owner and/or occupier of these lands at the location under i. above ?
Yes
- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier _____

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

Agricultural structure

- 1.SHED AREA (Class 6) :197
- 2.YARD AREA (class 8) : 83m2
- 3.CRUSH AREA (class 8) : 115m2

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 _____
_____ Class 6. Class 8 exempt development

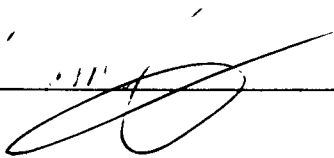
Additional details may be submitted by way of separate submission.

- 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 _____

Osi maps
Site plan
Floor plan

viii. Fee of € 80 Attached ? _____

Signed :  _____ Dated : 1-5-2024 _____

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.

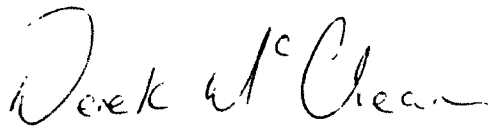
Snowdrop Cottage,
Upper Aghrim
Aghrim
Co. Wicklow
18/04/2024

Letter of consent

To whomever it may concern,

I, Derek McClean, give permission to my Neighbour Orla McClean, to apply for a section 5 application to build a farm shed on her property at Upper Aghrim. I have reviewed the proposed layout documents for these farm buildings and have no objection to their construction in close proximity to my property.

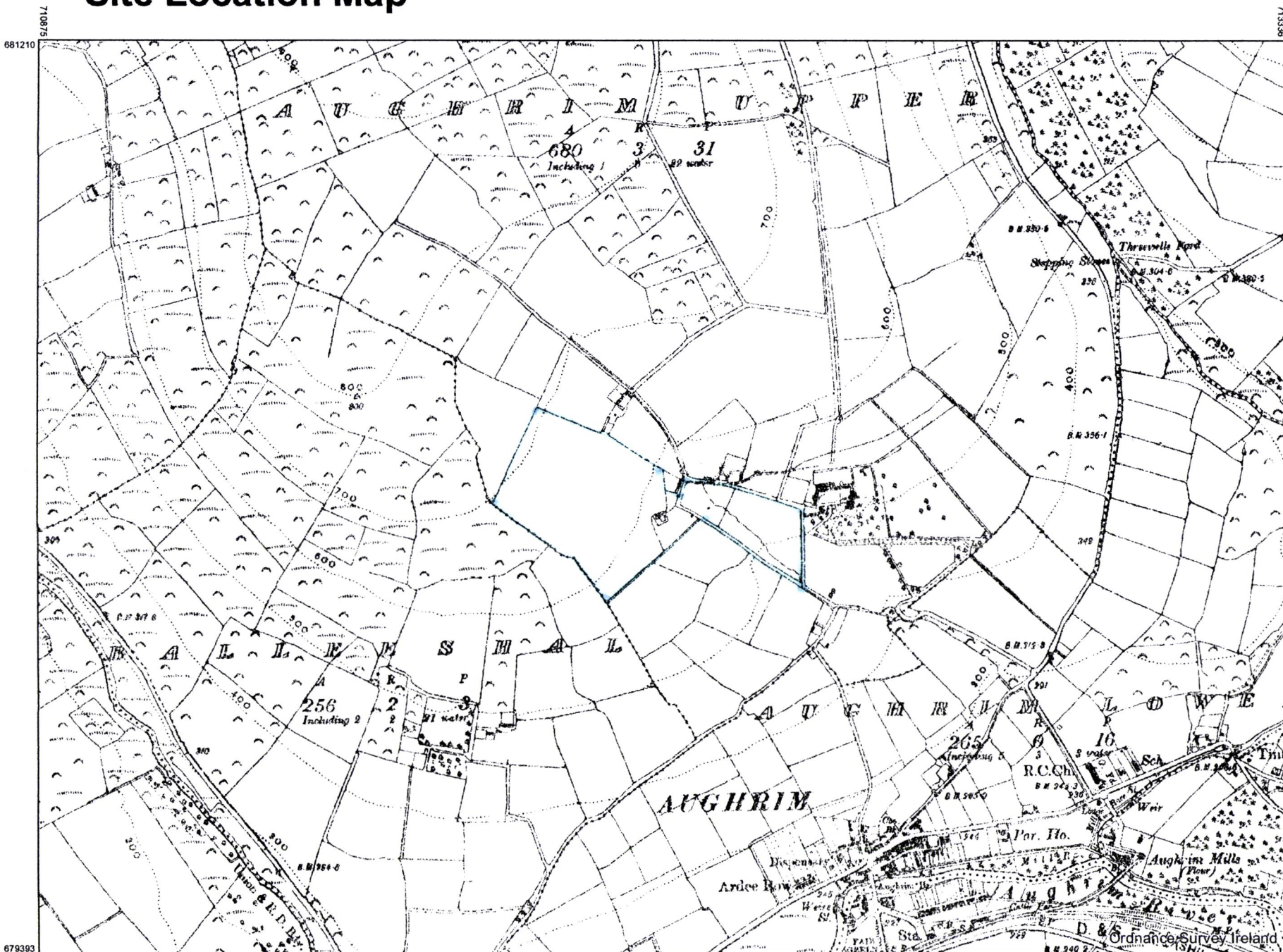
Signed

A handwritten signature in black ink that reads "Derek McClean". The signature is written in a cursive style and is positioned above a horizontal line.

Site Location Map



Tailte Éireann



681210
710875
679393
710875

681210
713336
679393
713336

CENTRE COORDINATES:
ITM 712106,680302

PUBLISHED: 23/04/2024
ORDER NO.: 50396121_1

MAP SERIES: 6 Inch Raster
MAP SHEETS: WW034

COMPILED AND PUBLISHED BY:
Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4

www.tailte.ie

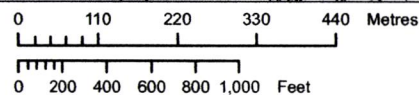
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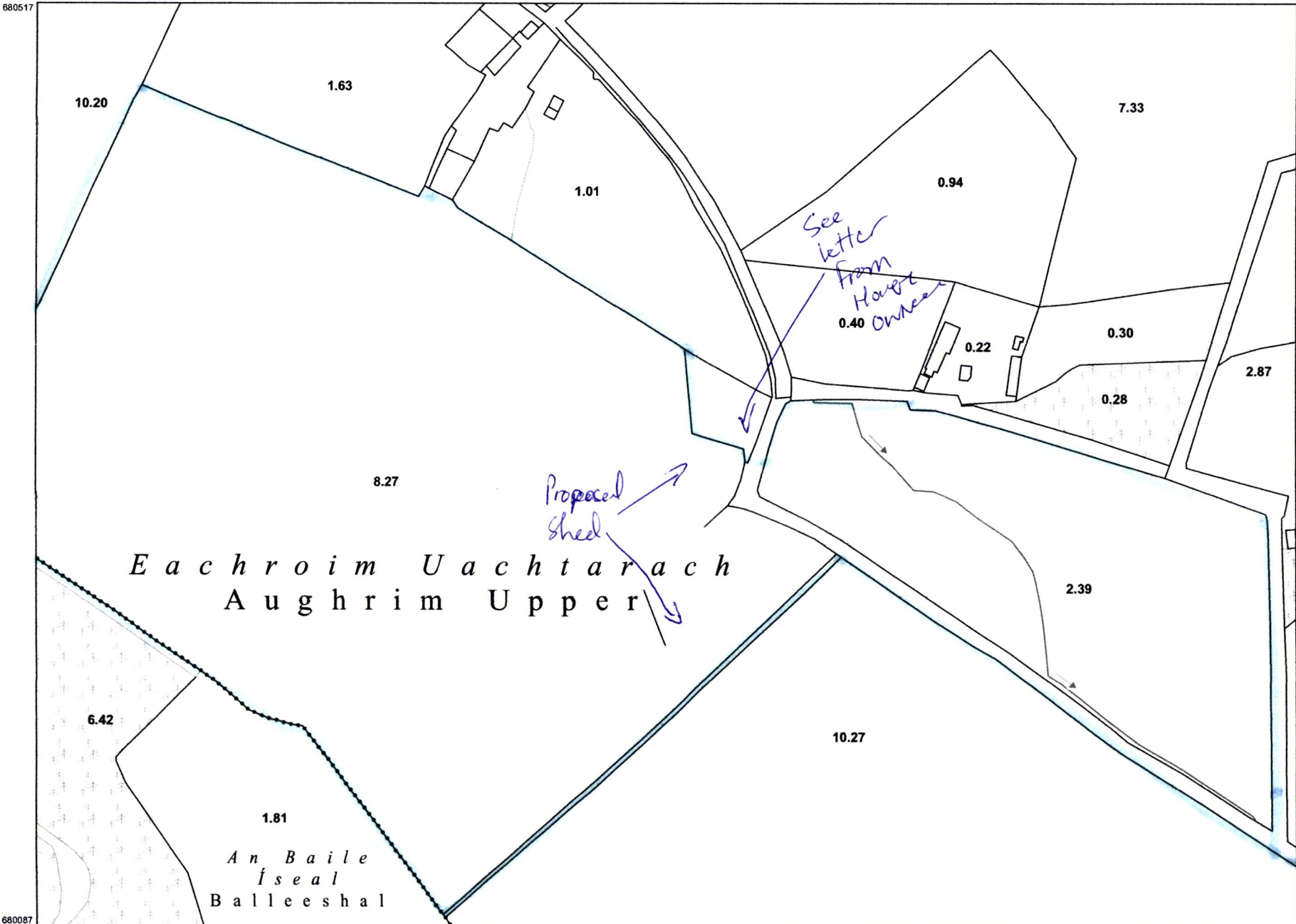


Ordnance Survey Ireland

Planning Pack Map



Tailte
Éireann



CENTRE COORDINATES:
ITM 712106,680302

PUBLISHED: 23/04/2024
ORDER NO.: 50396121_1

MAP SERIES: 1:2,500
1:2,500
MAP SHEETS: 4308-B
4309-A

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Ireland.
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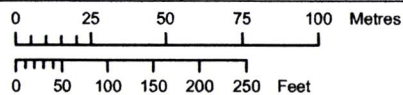
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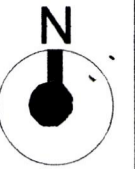


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AGRICULTURAL LAND

AGRICULTURAL LAND

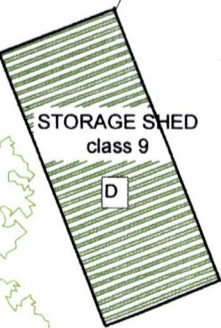
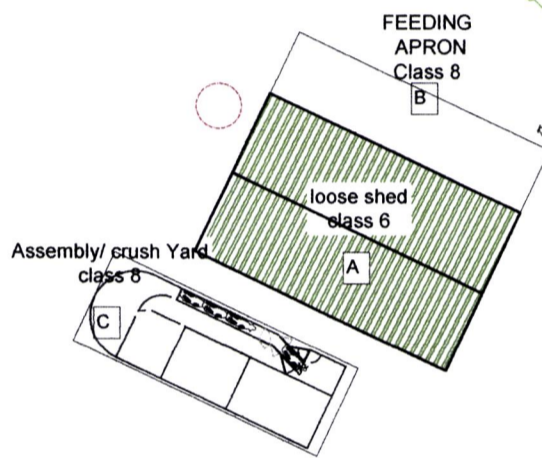
NEIGHBORING DWELLING HOUSE

note :
please find letter of consent attached

79060

26905

83855



AGRICULTURAL LAND

Proposed

CLASS 9 EXEMPTION STRUCTURE
Total 152m2 which is under the 900m2 total allowed

CLASS 8 EXEMPTION STRUCTURE
Total 198m2 which is under the 300m2 total allowed

CLASS 6 EXEMPTION STRUCTURE
Total 197m2 which is under the 300m2 total allowed



PREVAILING WIND

PROPOSAL

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PLANNING

AIDAN KELLY

B.Arch. B.sc Arch Tech B.Agr

ADPS

Agri Design & Planning Services

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TEL: 052 7462844
MOB: 085 7466211



PROJECT: Proposed building for Orla McClean at Aughrim upper, Aughrim, Co Wicklow

DRAWING TITLE:
Proposed Site Layout

DRAWN BY	DATE	SCALE	DWG NO.	JOB NO.
A KELLY	Apr 2024	1:500	01	152

--- CLEAN WATER
--- SOILED WATER

STONE SOAK AWAY

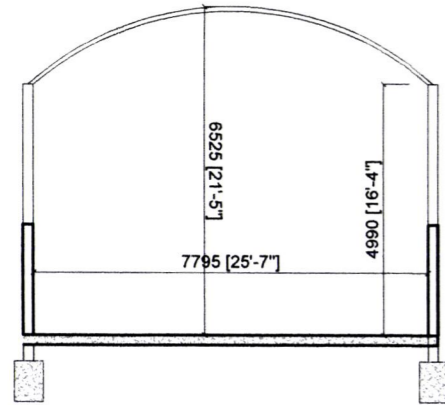
PROPOSED BUILDING

EXISTING BUILDING

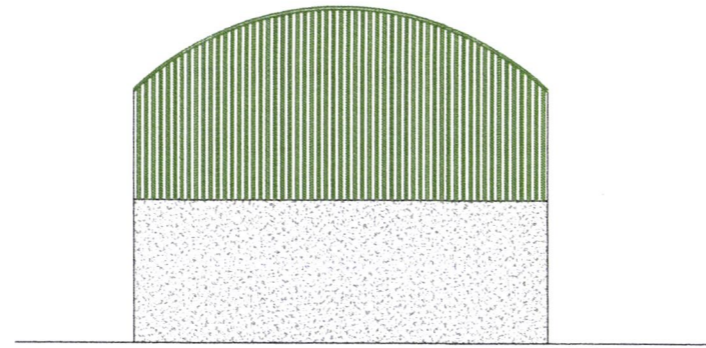
Proposed Site Layout Plan Scale 1:500

— LAND HOLDING BOUNDARY
— PROPOSED DEVELOPMENT (AREA 0.- Ha)

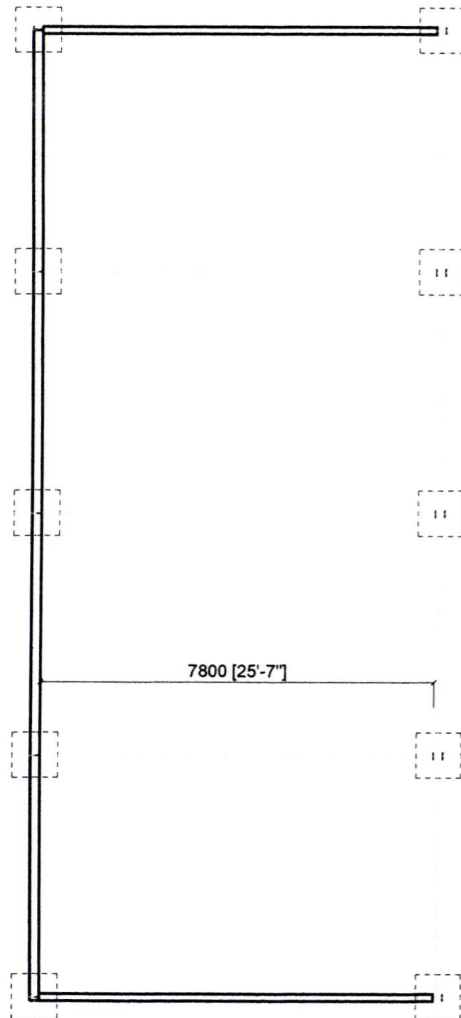
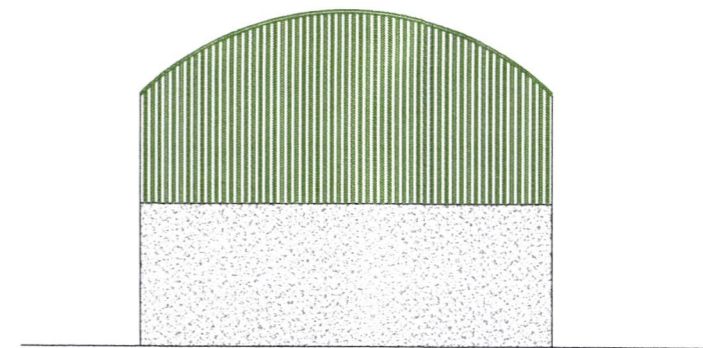
Section A-A'
Scale 1:150



North Elevation
Scale 1:150



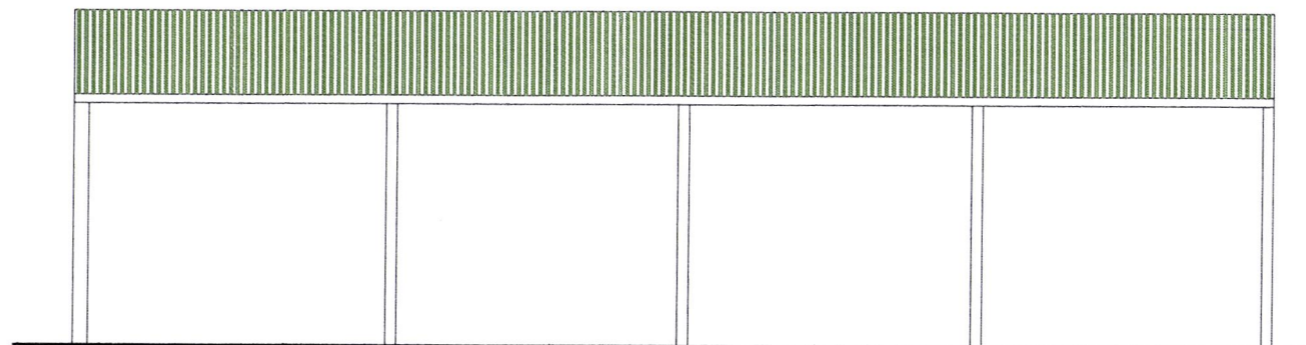
South Elevation
Scale 1:150



West Elevation
Scale 1:150



East Elevation
Scale 1:150



STORAGE AREA : 152m2

PLANNING

AIDAN KELLY

B.Arch. B.sc Arch Tech

ARCHITECTURE & AGRICULTURAL DESIGN SERVICES

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NEWCASTLE,
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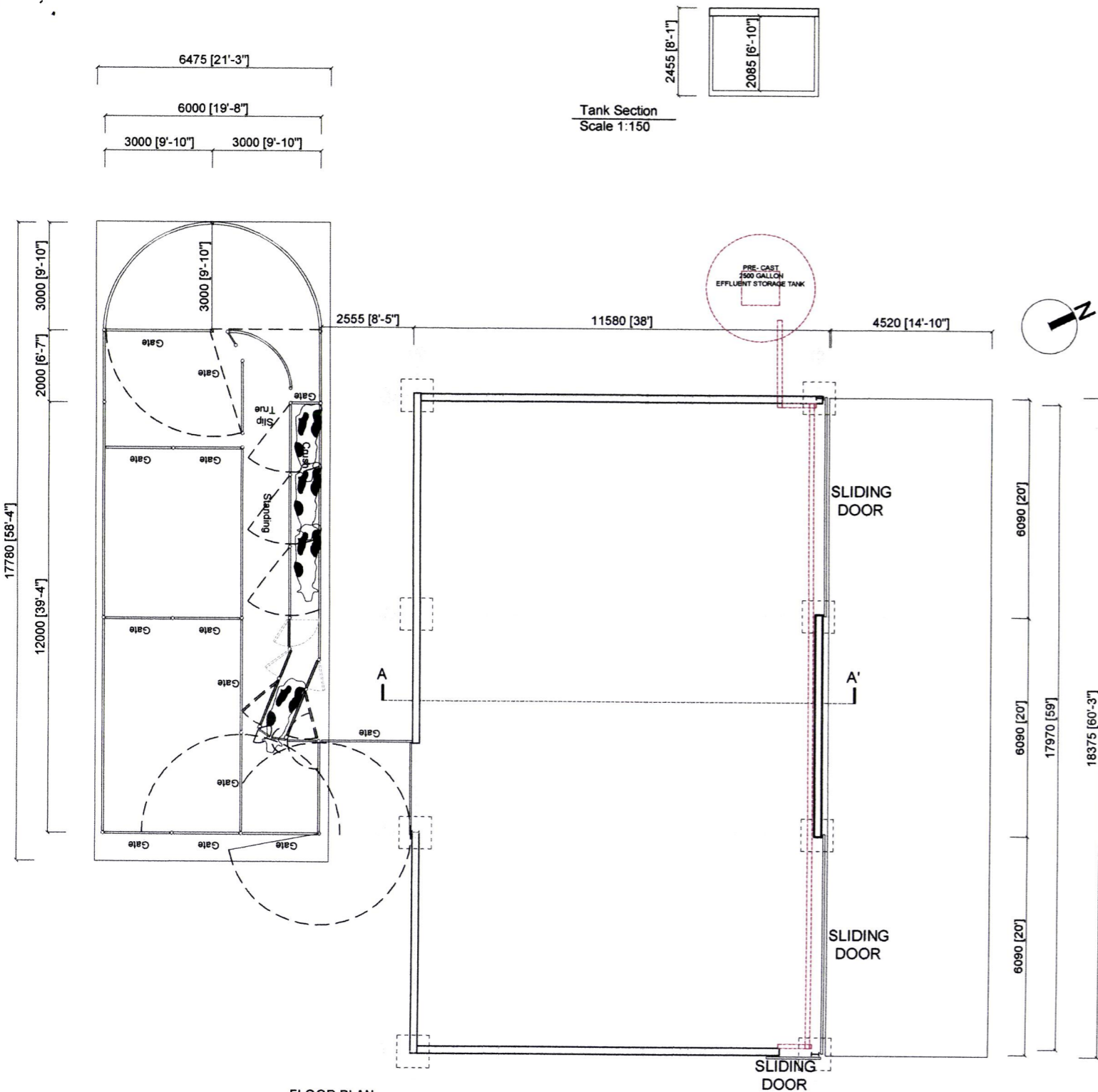
TEL: 052 7462844
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PROJECT: Proposed building for Orla McClean at Aughrim upper, Aughrim, Co Wicklow

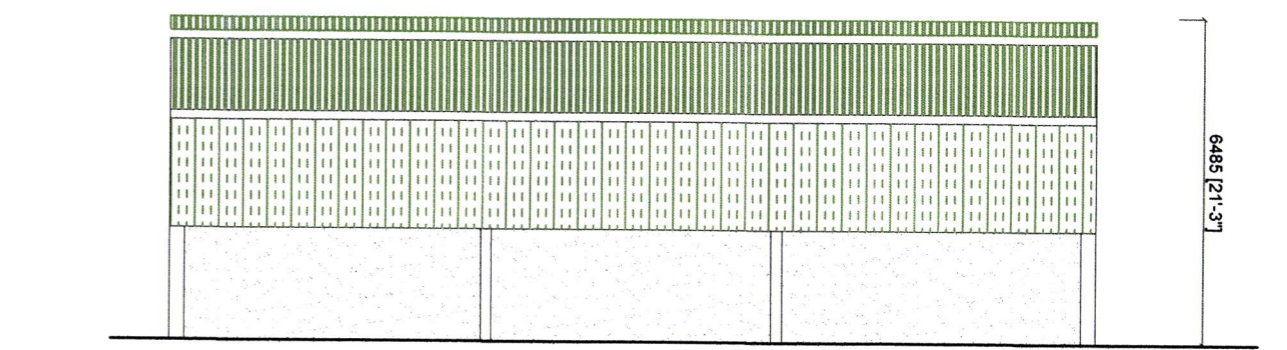
DRAWING TITLE:
Plan, section and elevations

DRAWN BY	DATE	SCALE	DWG NO.	JOB NO.
A KELLY	Apr 2024	1:150	04	152

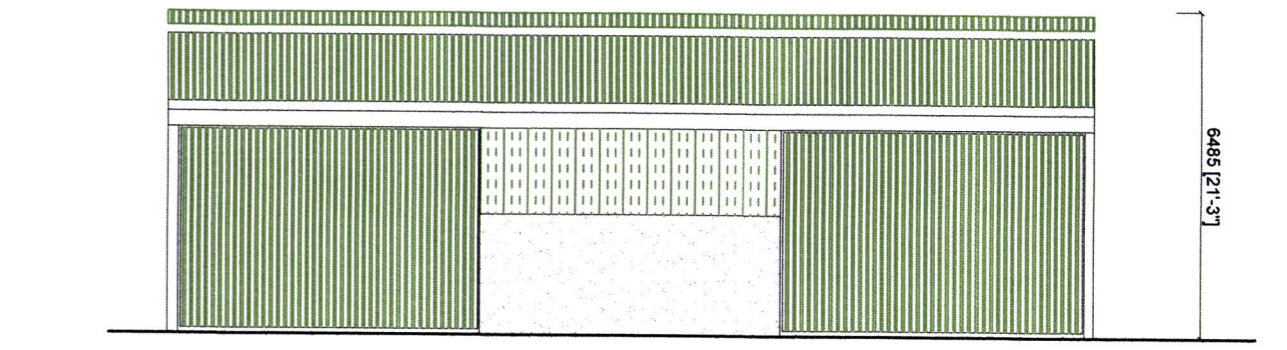


FLOOR PLAN
Scale 1:150

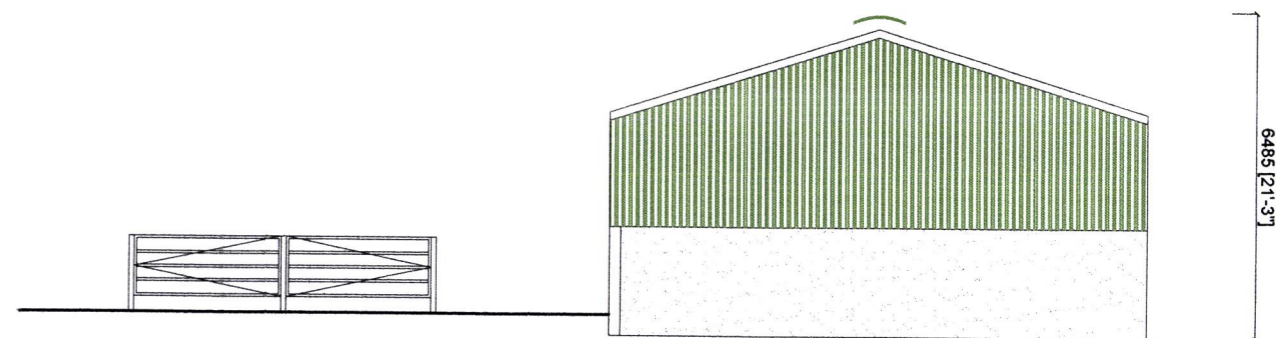
Tank Section
Scale 1:150



South Elevation
Scale 1:150



North Elevation
Scale 1:150



West / East Elevation
Scale 1:150

SHED AREA (Class 6) : 197
YARD AREA (class 8) : 83m2
CRUSH AREA (class 8) : 115m2

PLANNING

AIDAN KELLY B.Arch. B.sc Arch Tech
ARCHITECTURE & AGRICULTURAL DESIGN SERVICES

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