

Comhairle Contae Chorcaí Cork County Council

Connor Desmond,
c/o Denis Moran,
Derry,
Berrings,
Co. Cork.

Pleanáil agus Forbairt,
Halla an Chontae,
Bóthar Charraig Ruacháin,
Corcaigh T12 R2NC.
Fón: (021) 4276891 • Faics: (021) 4276321
R-phost: planninginfo@corkcoco.ie
Suíomh Gréasáin: www.corkcoco.ie
Planning & Development,
County Hall,
Carrigrohane Road, Cork T12 R2NC.
Tel (021) 4276891 • Fax (021) 4276321
Email: planninginfo@corkcoco.ie
Web: www.corkcoco.ie



8th August, 2023

REF: D/262/23
LOCATION: Callas, Berrings, Co. Cork.

RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 - 2010.

Dear Sir,

On the basis of the information submitted by you on 17th July 2023 the Planning Authority, having considered the question whether or not the proposed extension to an existing milking parlour and installation of an effluent tank (milking parlour wash) at **Callas, Berrings, Co. Cork** is or is not development and is or is not exempted development has declared that it **is development and is not exempted development.**

Reason for Decision

The Planning Authority in considering this referral had particular regard to:

- Sections 2 and 3 of the Planning and Development Act 2000 (as amended)
- Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001 (as amended) and
- The particulars received by the Planning Authority on 17th July 2023

And Whereas Cork County Council has concluded that –

The proposed extension to an existing milking parlour and installation of an effluent tank (milking parlour wash) at Callas, Berrings, Co. Cork constitutes **development that is not exempted development.**

Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Yours faithfully,



**KEVIN O' REGAN,
SENIOR EXECUTIVE OFFICER,
PLANNING DEPARTMENT.**

In order to process your query, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view at <https://www.corkcoco.ie/privacy-statement-cork-county-council>

- I. Application Type – Section 5 Declaration
- II. Description - Whether or not the extension of the milking parlour and to install an effluent tank (milking parlour wash) is or is not development and is nor is not exempted development.
- III. Location – Conor Desmond

1.0 Requirements for a Section 5 Declaration Application

Section 5(1) of the Planning and Development Act as amended states:

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

2.0 The Question Before The Planning Authority

Whether or not the extension of the milking parlor and to install an effluent tank (milking parlour wash) is or is not development and is nor is not exempted development.

3.0 Site Location

The subject site is located in Callas, Berrings and forms part of a farm complex and wider agricultural landholding.

4.0 Relevant Planning History

07/7889 – Conor Desmond was granted permission for the Demolition of cattle kennells/cubicles, silage wall and construction of a new silage slab, perimeter walls, new dairy slatted house and conversion of slurry tank to milk parlour washings and associated site works.

165136 - Connor Desmond was granted permission to construct a cubicle house, incorporating effluent tank and associated site works.

5.0 Relevant Planning Legislation and Regulations

Planning and Development Act 2000, (as amended)

Section 2(1) of the Act defines “works” as follows:

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

Section 3 (1) of the Act defines “development” as follows:

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

Planning and Development Regulations, 2001 (as amended)

Part 3, Class 6 of the Planning and Development Regulations, 2021 (as amended) states *‘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’*

6.0 Environmental Impact Assessment

Not applicable.

7.0 Planning Assessment

Works is defined in the Act as *‘the carrying out of works on, in, under or works and includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal’*.

Having regard to the above, it can be reasonably determined that the extension of the milking parlor and to install an effluent tank (milking parlour wash) is development.

The question before the Planning Authority is to determine, whether or not the extension of the milking parlour and to install an effluent tank (milking parlour wash) is or is not exempted development.

Part 3, Class 8 of the Planning and Development Regulations, 2021 (as amended) states *‘Works consisting of the provision of roofless cubicles, open loose yards, self feed 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’* subject to the following conditions and limitations:

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.

The existing structure is 123 sq m (as per application form) and the proposed extension is 40.5 sq m. The structure is to be used for agricultural purposes. The GFA of structures within the farm complex exceed 300 sq m, as per submitted drawings and planning history. The development is not within 10 m of a public road or within 100 m of any third-party houses. Dark Blue metal walling and render is proposed. It is considered that the conditions and limitations of Part 3, Class 6 of the Planning and Development Regulations, 2021 (as amended) have not been met and the works are not exempted as the GFA of structures within the complex exceed 300 sq m.

8.0 Recommendation

In considering this referral, regard has been had to:

- (a) Sections 2 and 3 of the Planning and Development Act, 2000 (as amended);
- (b) Schedule 2 of the Planning and Development Regulations, 2001 (as amended)

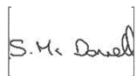
And whereas, the Planning Authority has concluded that:

- (a) The works constitute 'works' that are 'development'.
- (b) The works **are development and are not exempted development.**

Ciara Cosgrave
Assistant Planner
02/08/2023

I concur with the recommendation of the Area Planner as above

Sharon McDonnell



04/08/2023



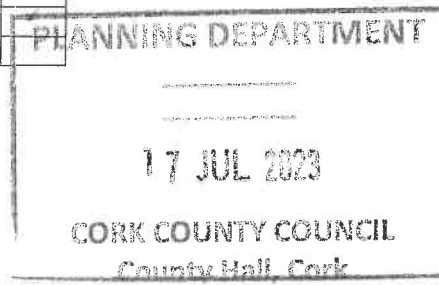
CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

(Please tick ✓)

- 4 No. Copies of Application Form:
- 1 No. Copy of Contact Details:
- 4 No. Copies 6" O.S. Maps:
- 4 No. Copies 25" O.S. Maps:
- 4 No. Copies of Site Layout Plan:
- 4 No. Copies Scaled Drawings of Development:
- €80 Application Fee:

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
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<input checked="" type="checkbox"/>



FOR OFFICE USE ONLY

Receipt No.	P12-0001280
Cash/Cheque/ Credit Card	Cheque
Date	17/07/2023
Declaration Ref. No.	D/202/23

DATE STAMP HERE

You should make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed by the public. Please do not submit any information that you do not want 3rd parties to view.

In the case of a Declaration of Exemption for Land Reclamation, the following additional information is required:

- A copy of the details submitted to the Council's Environment Department (Inniscarra) for a Waste Licence Permit
- Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural purposes)
- Details of existing and proposed levels
- Details of fill material and duration of fill.

DATA PROTECTION

The planning process is an open and public one. In that context, all applications for Declarations of Exemption are made available for public inspection.

Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data is a key priority for the Council and your data will be processed in line with our Privacy policy which is available at <http://www.corkcoco.ie/Privacy-Policy> or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to dpo@corkcoco.ie or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

4. APPLICATION DETAILS:

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square metres (m²)

(a) Floor area of existing/proposed structure(s):	123 EXISTING PARCO2
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 st October, 1964 (including those for which planning permission has been obtained):	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas (m ²) and previous planning reference(s) where applicable: PP REC 16-05/36
(c) If a change of use of land and/or building(s) is proposed, please state the following: Existing/previous use _____ _____ _____ Proposed use _____ _____ _____	N/A
(d) Are you aware of any enforcement proceedings connected to this site?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please state relevant reference number(s):

5. LEGAL INTEREST OF APPLICANT IN THE LAND/STRUCTURE:

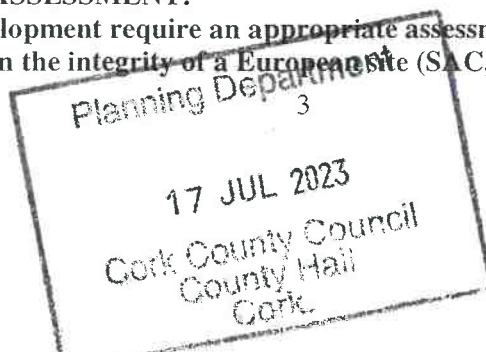
Please tick appropriate box to show applicant's legal interest in the land or structure:	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is "Other", please state your interest in the land/structure:		
If you are not the legal owner, please state the name of the owner/s (address to be supplied at Question C in Contact Details):		

6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

Is this a Protected Structure/Proposed Protected Structure or within the curtilage of a Protected Structure: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If yes, please state relevant reference No. _____
Is this site located within an Architectural Conservation Area (ACA), as designated in the County Development Plan? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

7. APPROPRIATE ASSESSMENT:

Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes No



8. DATA PROTECTION DECLARATION:

In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <http://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

Processing of your Declaration of Exemption application by the Planning Authority

I give permission for my personal information to be processed for the purpose stated above

Signed (By Applicant Only)	<i>Conor Deane</i>
Date	<i>15/7/2023</i>

GDPR Special Categories of data / Sensitive Personal data - Explicit Consent

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, **explicit consent** to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:

- Race
- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Concerning a natural person's sex life
- Sexual orientation

In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <https://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

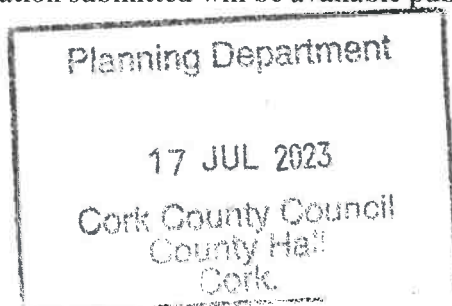
Sensitive personal data being submitted in support of Declaration of Exemption Application

I give permission for my sensitive personal data submitted to the Planning Authority to be processed for the purpose stated above.

Signed	<i>Conor Deane</i>
Date	<i>15/7/2023</i>

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planninginfo@corkcoco.ie or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcorkplanninginfo@corkcoco.ie However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.




ADVISORY NOTES:

The application must be accompanied by the required fee of €80
The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.
Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.
The application should be sent to the following address:
The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

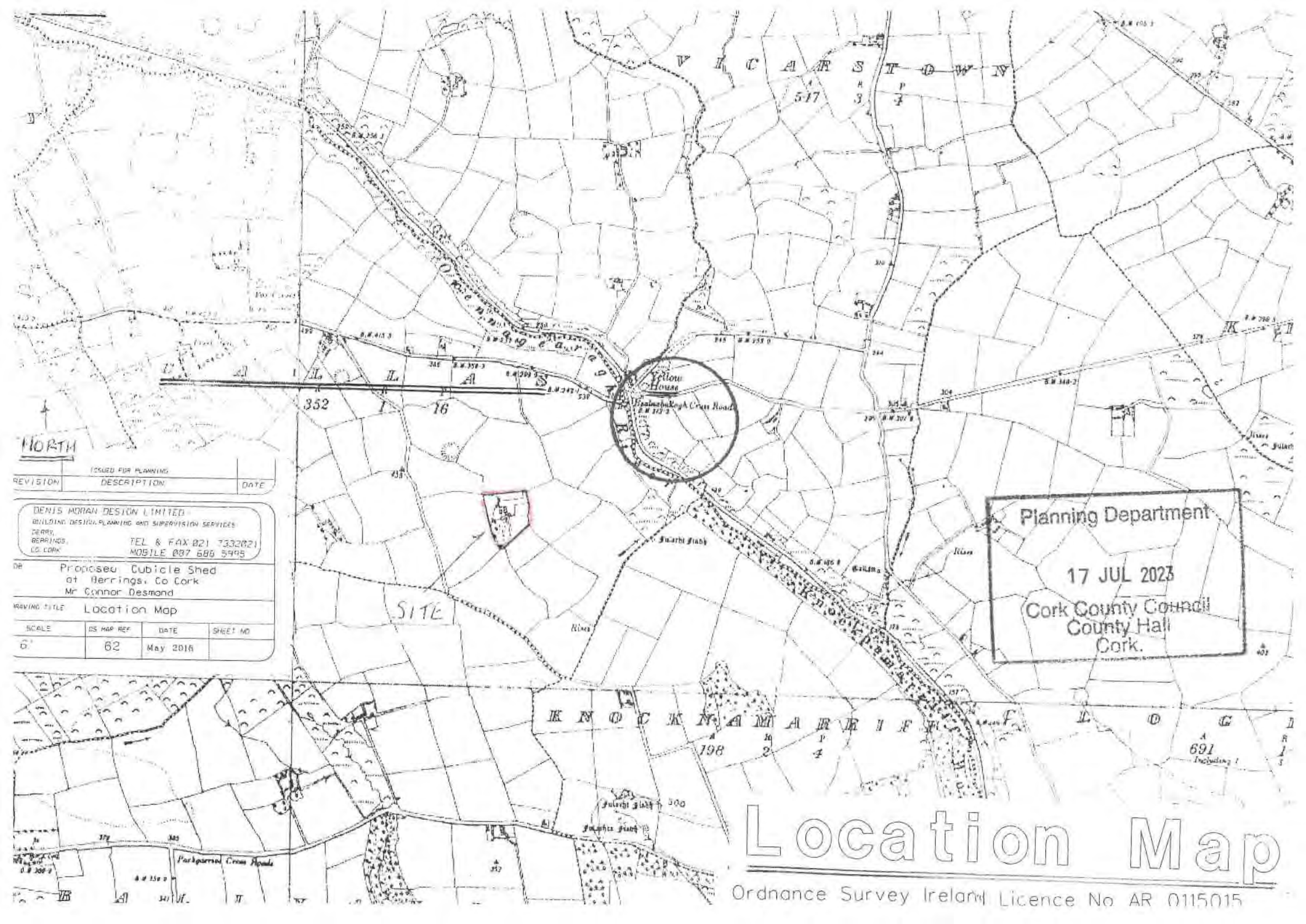
- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- The Planning Authority may request other person(s), other than the applicant; to submit information on the question which has arisen and on which the Declaration of Exemption is sought.
- Any person issued with a Declaration of Exemption may on payment to An Bord Pleanála refer a Declaration of Exemption for review by the Board within 4 weeks of the date of the issuing of the Declaration of Exemption decision.
- In the event that no Declaration of Exemption is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a Declaration of Exemption was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations, 2001, as amended.

9. **I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the Planning and Development Acts 2000, as amended and the Regulations made thereunder:**

Signed (Applicant or Agent as appropriate)	
Date	15/7/2023

Planning Department
17 JUL 2023
Cork County Council
County Hall
Cork.



NORTH

REVISION	ISSUED FOR PLANNING DESCRIPTION	DATE

DENIS MORAN DESIGN LIMITED
 BUILDING DESIGN, PLANNING AND SUPERVISION SERVICES
 DERRY, BERRINGS, CO. CORK
 TEL & FAX 021 333021
 MOBILE 087 686 5495

OR Proposed Cubicle Shed
 at Herring's, Co Cork
 Mr Connor Desmond

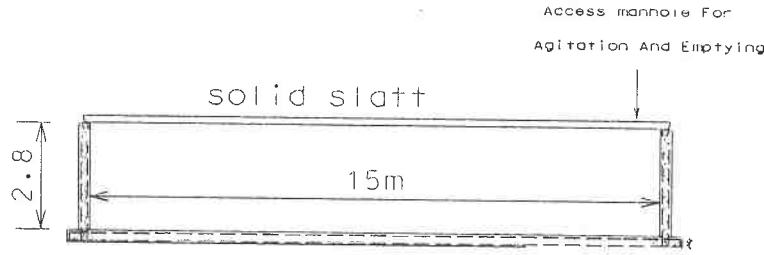
DRAWING TITLE: Location Map			
SCALE	OS MAP REF	DATE	SHEET NO
G	62	May 2016	

Planning Department
 17 JUL 2023
 Cork County Council
 County Hall
 Cork.

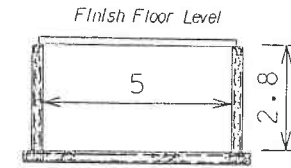
Location Map

Proposed Effluent Tank 19 A

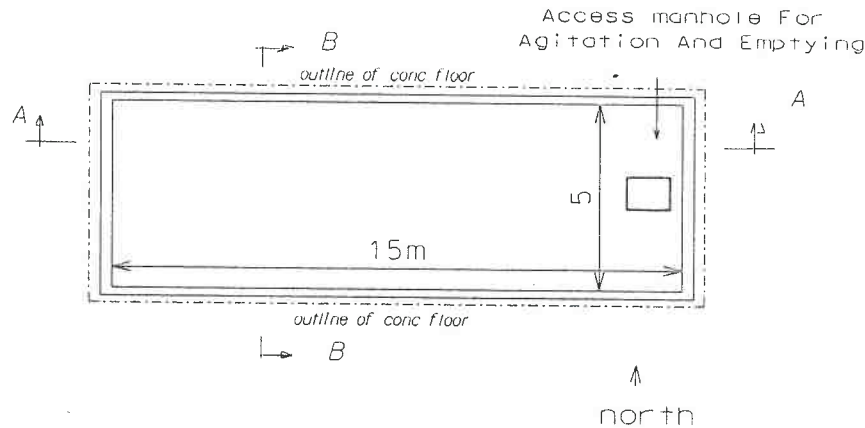
CONSTRUCTED IN LINE WITH DEPARTMENT OF AGRICULTURE, FOOD AND RURAL DEVELOPMENT AND DEPARTMENT OF THE ENVIRONMENT AND LOCAL GOVERNMENT REQUIREMENTS.



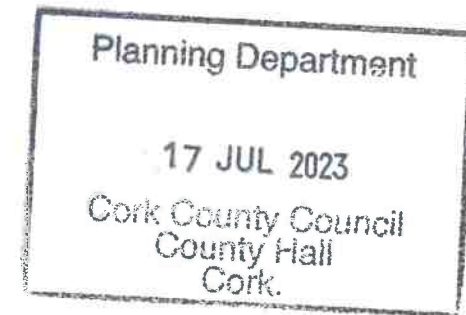
SECTION AA



SECTION BB



PLAN



REVISION	ISSUED FOR PLANNING DESCRIPTION	DATE

DENIS MORAN DESIGN LIMITED
 BUILDING DESIGN, PLANNING AND SUPERVISION SERVICES
 DERRY,
 BEHRINGS,
 CO. CORK. TEL & FAX 021 7332021
 MOBILE 087 688 5995

JOB Proposed Effluent Tank for Milking Parlour Wash
 at Berrings, Co Cork
 Mr Connor Desmond

DRAWING TITLE
 Plan, Section & Elevations

SCALE	OS MAP REF	DATE	SHEET NO
1:200	62-13	July 2023	

Proposed Effluent Tank

TOTAL CAPACITY 250 CU M

Location Map

LAND HOLDING OUTLINED IN BLUE

SITE OUTLINED IN RED

Area of Site 1.3 Ha

REVISION	DESCRIPTION	DATE
1	ISSUED FOR PLANNING	
2	REVISED	
3	REVISED	
4	REVISED	
5	REVISED	
6	REVISED	
7	REVISED	
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18	REVISED	
19	REVISED	
20	REVISED	

DETECTIVE MURPHY CONSULTANTS LTD
 CONSULTING ARCHITECTS, PLANNING AND SURVEYING SERVICES
 100, THE QUAYS, CORK
 TEL: 021 492 1320
 MOBILE: 087 598 5995

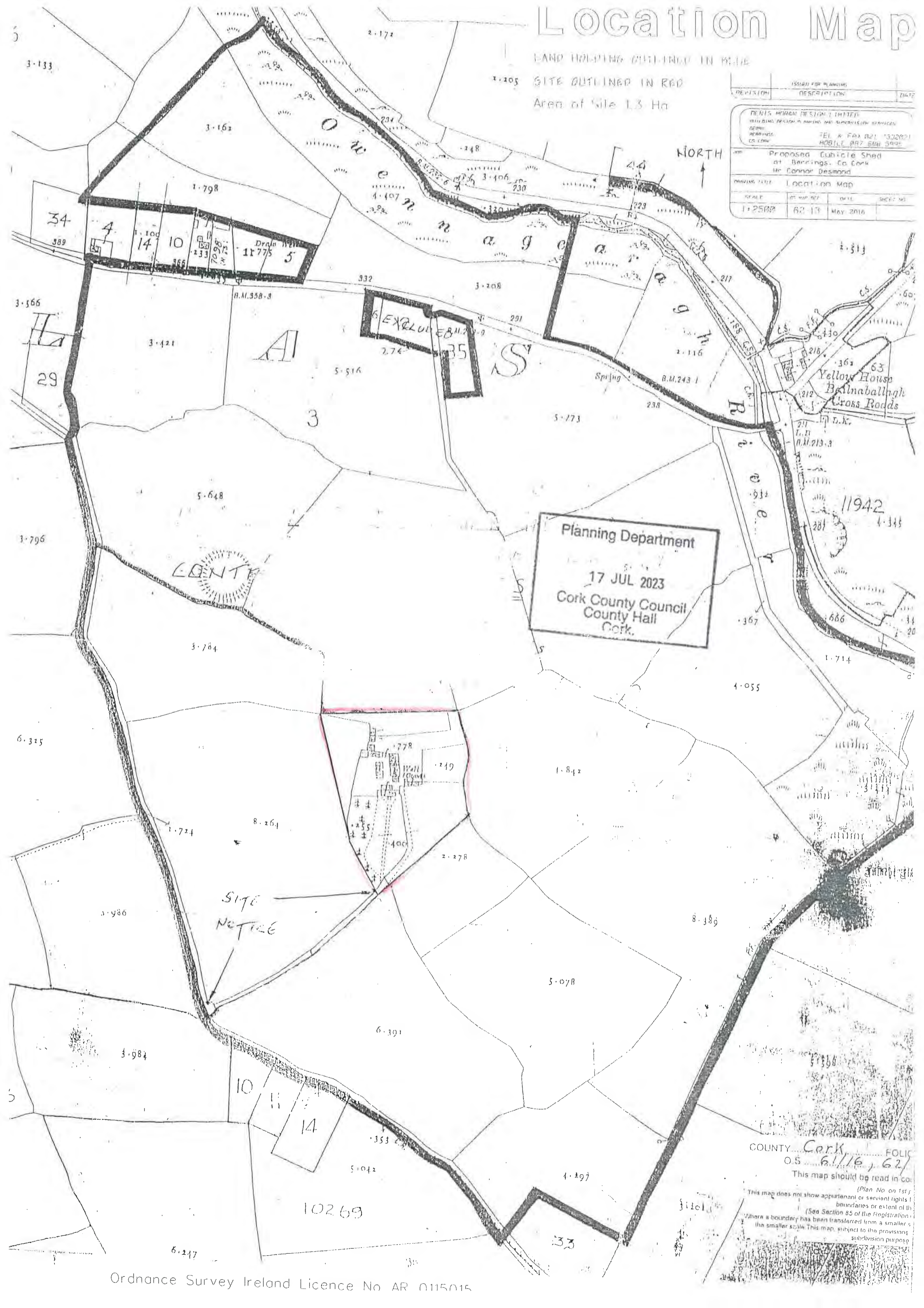
Proposed Cubicle Shed
 at Bannings, Co Cork
 Mr Connor Desmond

PLANNING TITLE: Location Map

SCALE: 1:2500

DATE: 6/1/16

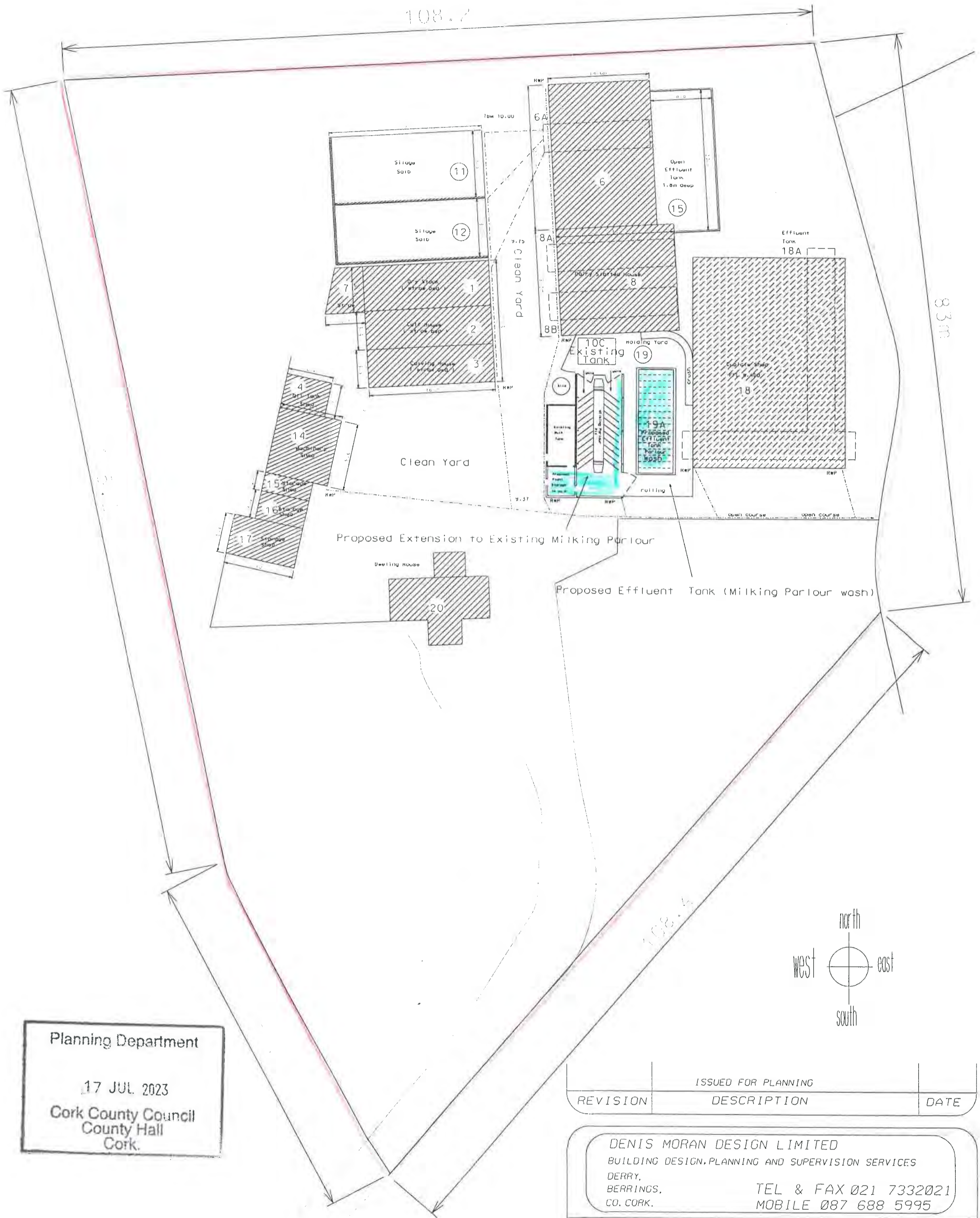
SHEET NO: 62/



Planning Department
 17 JUL 2023
 Cork County Council
 County Hall
 Cork.

COUNTY Cork FOLIO
05 61/16, 62/
 This map should be read in con

(Plan No on 1st p
 This map does not show appurtenant or servient rights
 boundaries or extent of its
 (See Section 85 of the Registration
 where a boundary has been transferred from a smaller
 the smaller scale. This map, subject to the provisions
 subdivision purpose



Planning Department
 17 JUL 2023
 Cork County Council
 County Hall
 Cork.

site map

SITE OUTLINED IN RED

Area of Site 1.3 Ha

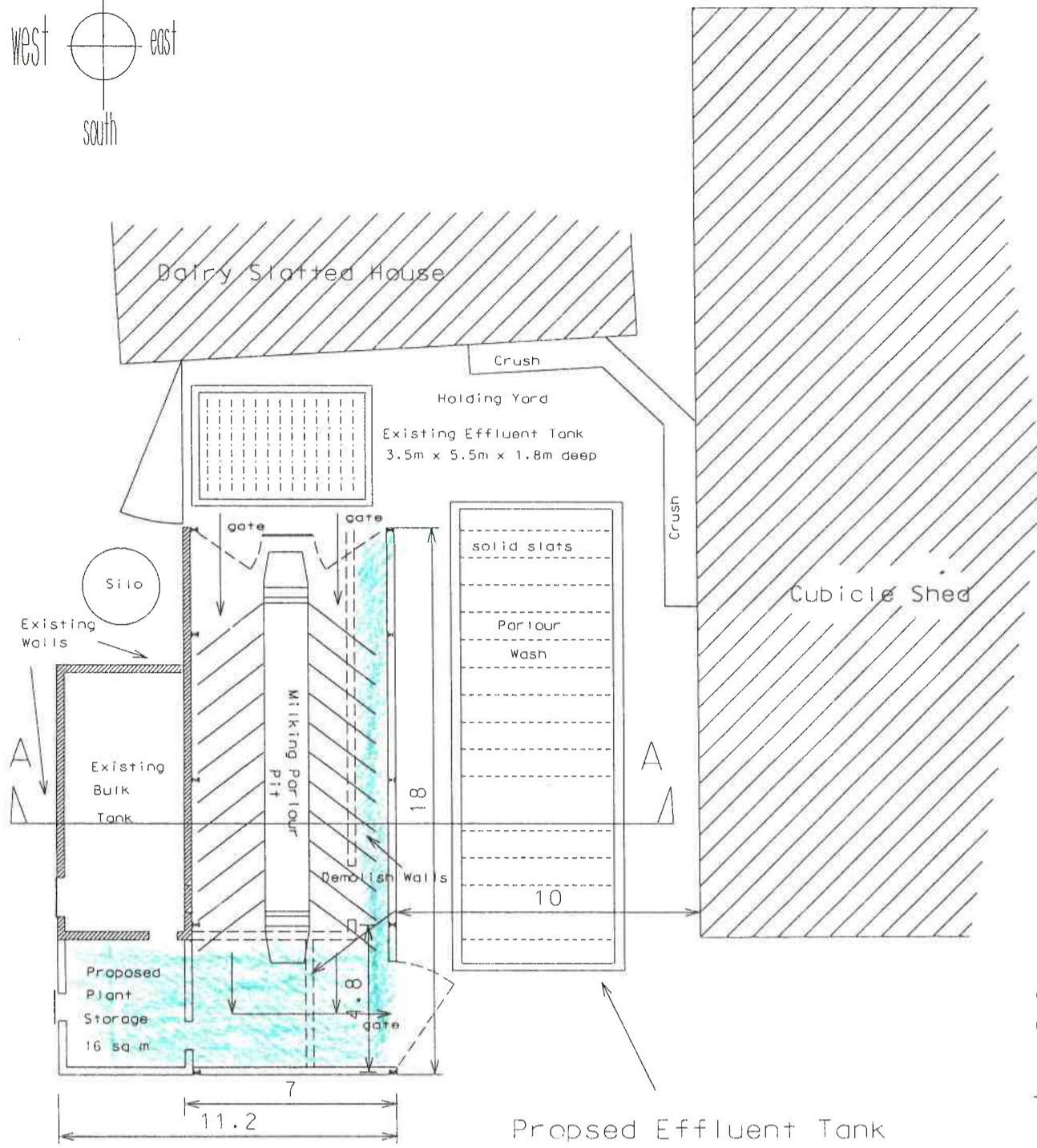
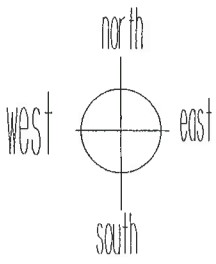
REVISION	DESCRIPTION	DATE
	ISSUED FOR PLANNING	

DENIS MORAN DESIGN LIMITED
 BUILDING DESIGN, PLANNING AND SUPERVISION SERVICES
 DERRY,
 BERRINGS, CO. CORK. TEL & FAX 021 7332021
 MOBILE 087 688 5995

JOB Proposed Extension to Existing Milking Parlour
 and Install Effluent Tank (Milking Parlour wash)
 at Berrings, Co Cork for Mr Connor Desmond

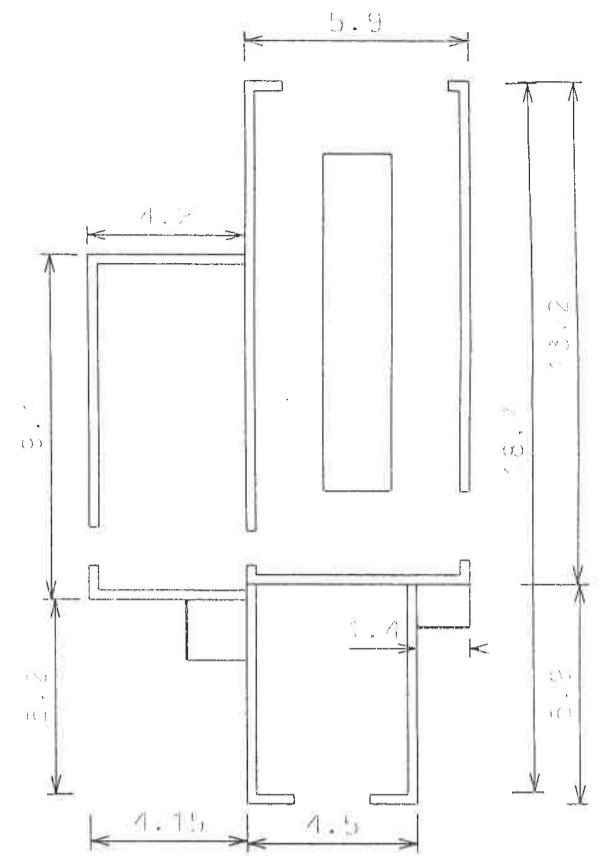
DRAWING TITLE Site Map

SCALE	OS MAP REF	DATE	SHEET NO
1:500	62-13	July 2023	



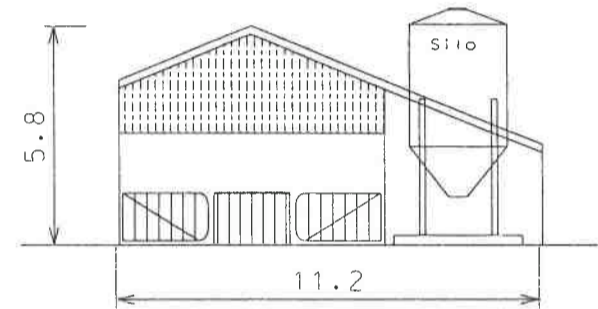
Floor Plan

Proposed Extension 40.5 sq m

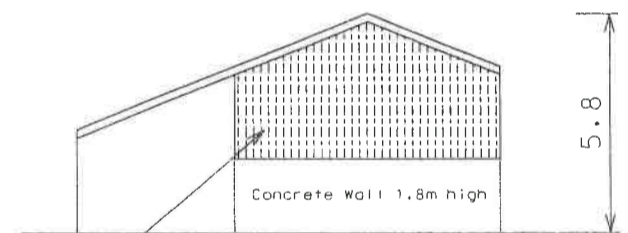


Existing Floor Plan

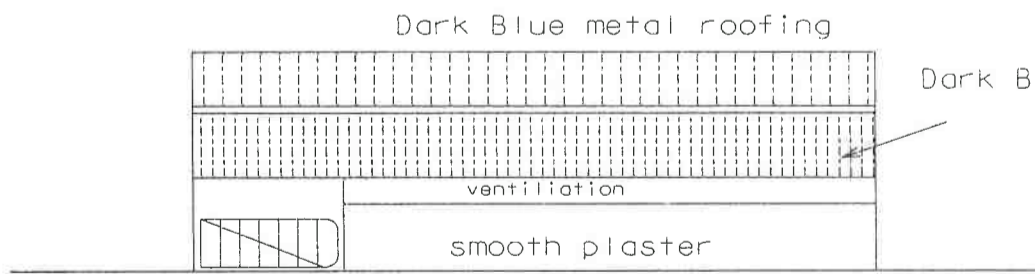
Floor area 123 sq m



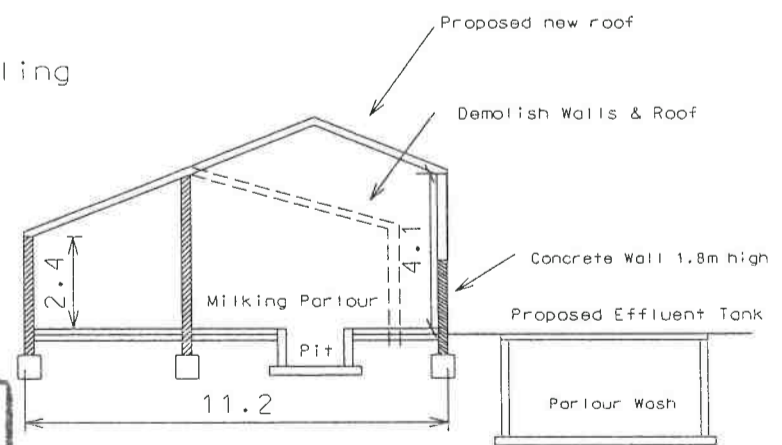
North Elevation



South Elevation

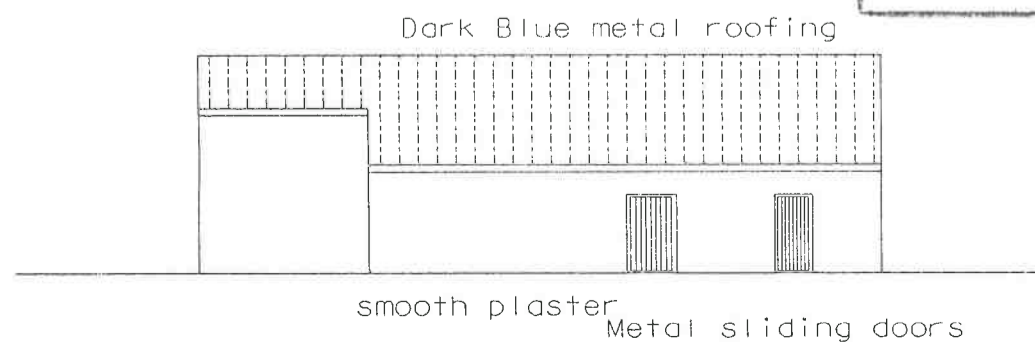


East Elevation



Cross Section A-A

Planning Department
17 JUL 2023
Cork County Council
County Hall
Cork.



REVISION	ISSUED FOR PLANNING DESCRIPTION	DATE

DENIS MORAN DESIGN LIMITED
BUILDING DESIGN, PLANNING AND SUPERVISION SERVICES
DERRY, BERRINGS, CO. CORK. TEL & FAX 021 7332021
MOBILE 087 688 5995

JOB Proposed Extension to Milking Parlour at Berrings, Co Cork Mr Connor Desmond

DRAWING TITLE
Plan, Section & Elevations

SCALE	OS MAP REF	DATE	SHEET NO
1:200	62-13	March 2023	