

Comhairle Contae Chorcaí Cork County Council

Peter McSwiney,
c/o Agri Design & Planning Services,
Molough,
Newcastle,
Clonmel,
Co. Tipperary.

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



13th September 2023

REF: D/274/23
LOCATION: Tulligmore, Dripsey, 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 23rd August 2023 the Planning Authority, having considered the question whether or not the construction of a shed for agricultural use (storage) at **Tulligmore, Dripsey, Co. Cork** is or is not development and is or is not exempted development has declared that it **is development and is 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 of the Planning and Development Regulations 2001 (as amended) and
- The particulars received by the Planning Authority on 23rd August 2023

And Whereas Cork County Council has concluded that –

The construction of a shed for agricultural use (storage) at **Tulligmore, Dripsey, Co. Cork** constitutes **development which is exempted development.**

This exemption does NOT itself empower a person to carry out a development unless that person is legally entitled to do so.

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 construction of a shed for agricultural use (storage) is or is not development and is nor is not exempted development.
- III. Location – Tulligmore, Dripsey, Co. Cork
- IV. Applicant – Peter McSwiney

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 construction of a shed for agricultural use (storage) is or is not development and is nor is not exempted development.

3.0 Site Location

The subject site is located in Tulligmore, Dripsey. The subject site is located adjacent to the applicants dwelling where there are 3 no. existing sheds/structures.

4.0 Relevant Planning History

None.

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.

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 9 of the Planning and Development Regulations, 2021 (as amended) states

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

6.0 Environment

I note the Environment Officer's report (dated 06.09.2023) which is satisfied with the proposal.

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 construction of a shed for agricultural use (storage) is development.

The question before the Planning Authority is to determine, whether or not the shed for agricultural use is or is not exempted development.

Part 3, Class 9 of the Planning and Development Regulations, 2021 (as amended) states *'Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.'* subject to the following conditions and limitations:

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

The development is stated to be for agricultural storage.

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

The shed is proposed to be 293 sq m resulting an aggregate of 568 sq m.

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

The structure is a minimum of 11.005 m from the public road.

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

The development has a maximum height of 6.64 m.

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

From review of available aerial photography the development is not located within 100 m of any third party houses, other than the house of the applicant.

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

The drawings illustrate concrete/clad elevations.

Having regard to the above, it is considered that the conditions and limitations of Part 3, Class 9 of the Planning and Development Regulations, 2021 (as amended) have been met and the works are exempted.

8.0 Recommendation

In considering this referral, regard has been had to:

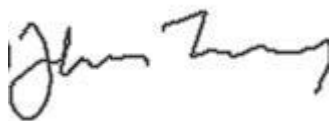
- (a) Sections 2 and 3 of the Planning and Development Act, 2000 (as amended);
- (b) Schedule 2 of the Planning and Development Regulations, 2001 (as amended)

And whereas, the Planning Authority has concluded that:

- (a) The works constitute 'works' that are 'development'.
- (b) The works **is development and is exempted development.**

Ciara Cosgrave
Assistant Planner
12.09.2023

.....
Recommendation Endorsed



John Tierney
A/Senior Executive Planner
13/09/2023

Application for Planning Exemption

Reference: D/274/23

Applicant: Peter McSwiney

Address: Tullig More, Dripsey, Co. Cork

Date: 6th Sept '23

By: Kevin Murphy

Existing Site

The existing site at Tullig More, Dripsey, co. Cork includes a dwelling house and 3 no. storage sheds. The site is part of a 26.18Ha landholding at this location.

Details of Application

The application for a Class 9 planning exemption relates to:

- Construction of an approx. 24.4m x 12.2m x 6.64m high agricultural storage shed.

Uncontaminated rainwater from the roof is to be discharged to a soakaway. No wastewater or agricultural effluents are to be generated in the proposed shed.

Assessment of the Application

It is stated in the application that the proposed shed is to be an agricultural storage shed. This is consistent with Condition/limitation 1 of a Class 9 Exempted development. The Applicant should be made aware that it is not permitted to house animals or store effluents in the proposed shed.

The proposed shed appears to be compliant with the other Conditions/limitations attached to a Class 9 exempted structure.

Conclusions

I have no objection to the construction of the proposed agricultural shed.

The Applicant should be made aware that the housing of animals or storage of farm effluents in the proposed shed is not permitted.

END



Molough,
Newcastle,
Clonmel,
Co. Tipperary.
22 Aug. 23

Section 5
Schedule list

Client:
Peter McSwiney

Address;
Post: Tulligmore, Dripsey, Co. Cork.
P12f674

Proposal;
Permission to construct (I) EXEMPT storage shed and all associated site works

Documentation:

Drawings

Sheet no.	Title	Scale	Size	Quantity
01	site layout	1:500	A2	4
02	Floor plan	SEE PAGE	A3	4

Maps

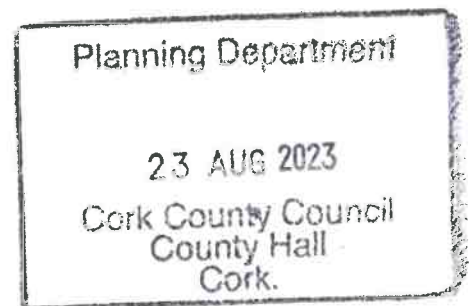
Sheet no.	Title	Scale	Size	Quantity
05	Site location map	1:10560	A4	4
06	Site location map	1:2500	A4	4

Application form and checklist

4

Regards

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





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

FOR OFFICE USE ONLY *Pre-Paid*

Receipt No.	<i>CAC0164261</i>
Cash/Cheque/ Credit Card	<i>CASH</i>
Date	<i>22-8-2023</i>
Declaration Ref. No.	<i>D/274/23</i>

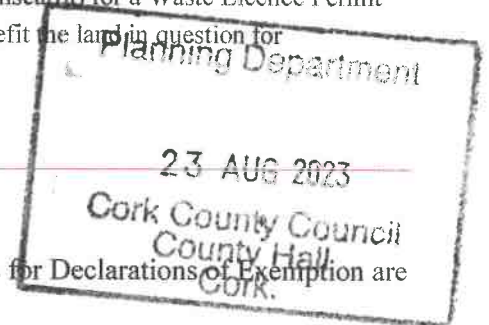
€80.

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):	275m ² class 9 existing
(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:
(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:	<div style="border: 1px solid black; padding: 5px; text-align: center;"> Planning Department 23 AUG 2023 Cork County Council Conservation Area Cork. </div>	
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>Peter McSwiney</i>
Date	15-8-2023

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>Peter McSwiney</i>
Date	15-8-2023

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:

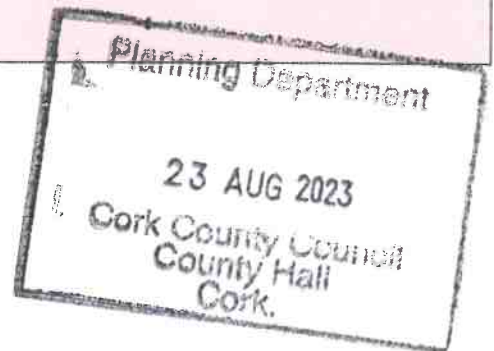
The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- 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:

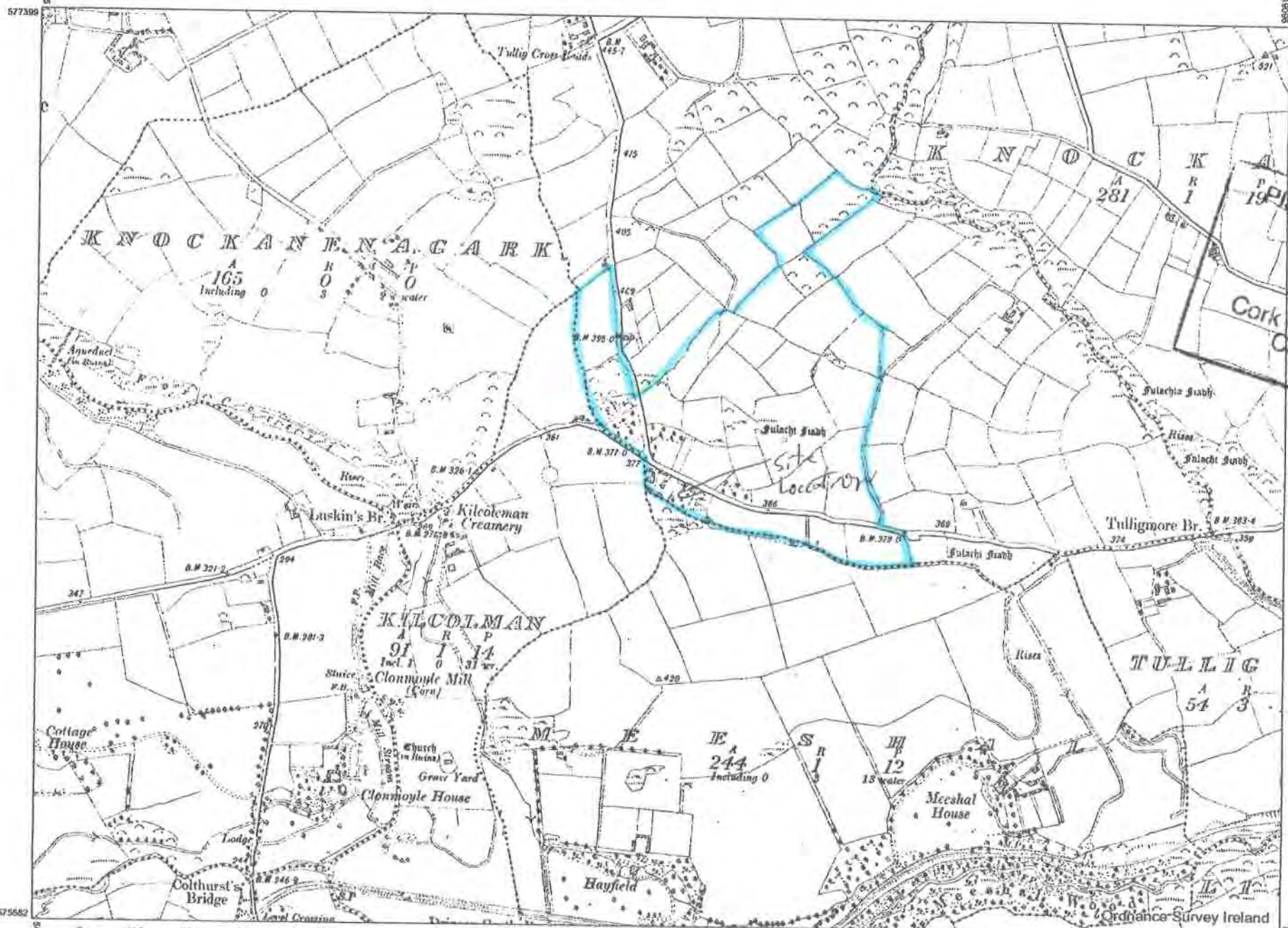
Signed (Applicant or Agent as appropriate)	
Date	22-8-2023



Site Location Map



Tailte Éireann



CENTRE COORDINATES:
 ITM 547866,576491

PUBLISHED: 17/08/2023

ORDER NO.: 50352125_1

MAP SERIES: 1:10,000 Raster

MAP SHEETS: CK061

Planning Department

23 AUG 2023

Cork County Council
 County Hall
 Cork

COMPILED AND PUBLISHED BY:
 National Mapping Division of
 Tailte Éireann,
 Phoenix Park,
 Dublin 8,
 Ireland.
 D08F6E4

www.tailte.ie

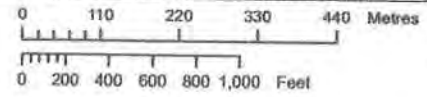
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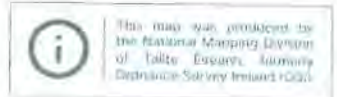
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OUTPUT SCALE: 1:10,560

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

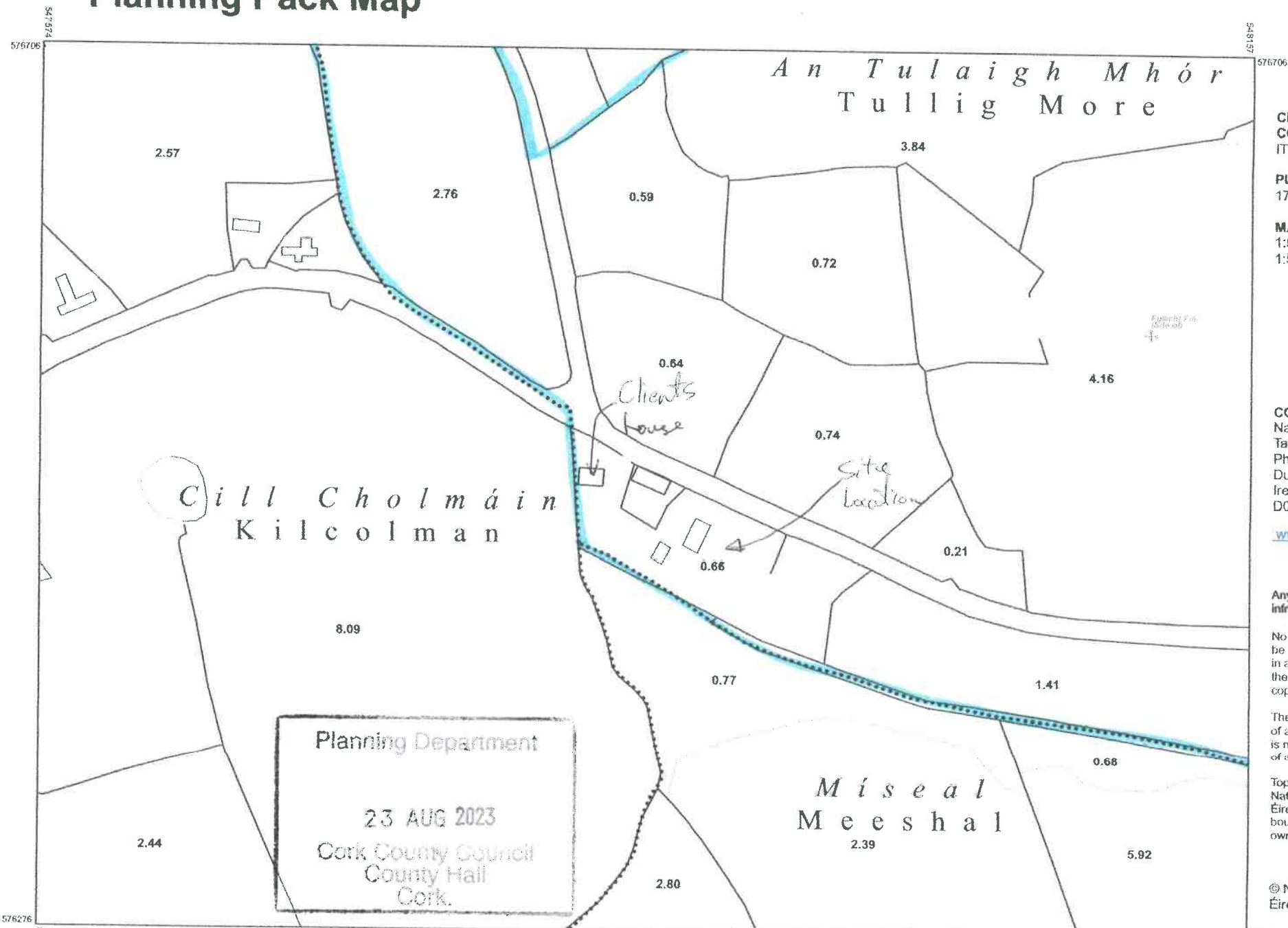
LEGEND:
 To view the legend visit www.osi.ie and search for 'Large Scale Legend'



Planning Pack Map



Tailte Éireann



CENTRE COORDINATES:
ITM 547866,576491

PUBLISHED: 17/08/2023
ORDER NO.: 50352125_1

MAP SERIES: 1:5,000
MAP SHEETS: 6285, 6286

COMPILED AND PUBLISHED BY:
National Mapping Division of Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4

www.tailte.ie

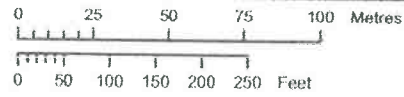
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LEGEND:
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This map was produced by the National Mapping Division of Tailte Éireann, formerly Ordnance Survey Ireland (OSI)



Planning Department
23 AUG 2023
Cork County Council
County Hall
Cork.

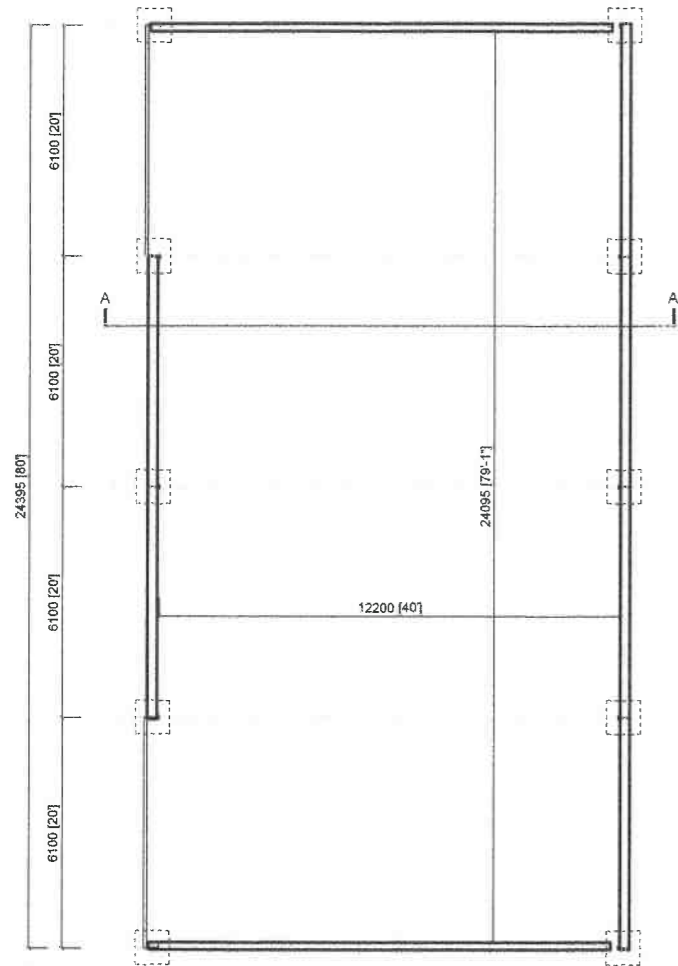
Proposed

- CLEAN WATER
- SOILED WATER
- STONE SOAK AWAY
- PROPOSED BUILDING
- EXISTING BUILDING

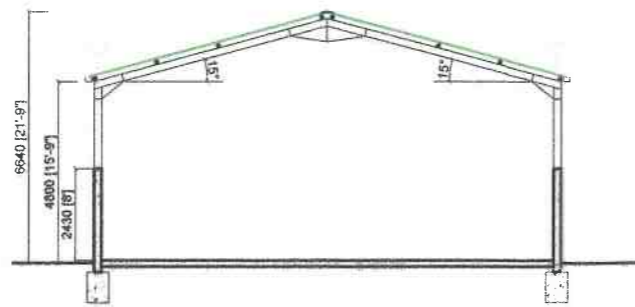
Proposed Site Layout Plan
Scale 1:500

- LAND HOLDING BOUNDARY
- PROPOSED DEVELOPMENT (AREA 0.48 Ha)
- PROPOSED DEMOLITION WORKS
- WORKS FOR WHICH PERMISSION FOR RETENTION IS SOUGHT

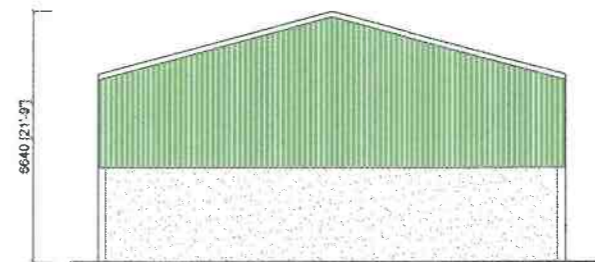
PLANNING				
AIDAN KELLY		B.Arch. B.sc Arch Tech		
ARCHITECTURE & AGRICULTURAL DESIGN SERVICES				
MOLOUGH, NEWCASTLE, CLONMEL, CO. TIPPERARY.		TEL: 052 7462844 MOB: 085 7466211		
EMAIL: AIDANKELLY2000@YAHOO.IE				
WEBSITE : WWW.ADPS.IE				
PROJECT: Proposed building for Peter Mcswiney at Tulligmore, Dripsey, Co. Cork.				
DRAWING TITLE: Proposed Site Layout				
DRAWN BY	DATE	SCALE	DWG NO.	JOB NO.
A KELLY	July 2023	1:500	02	093



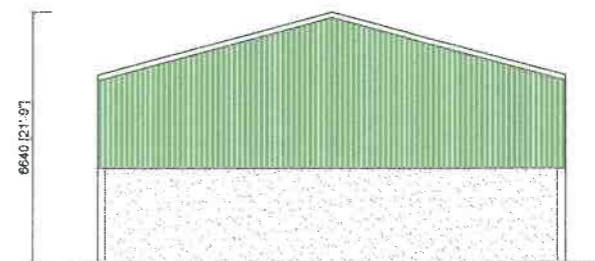
Floor Plan
Scale 1:200



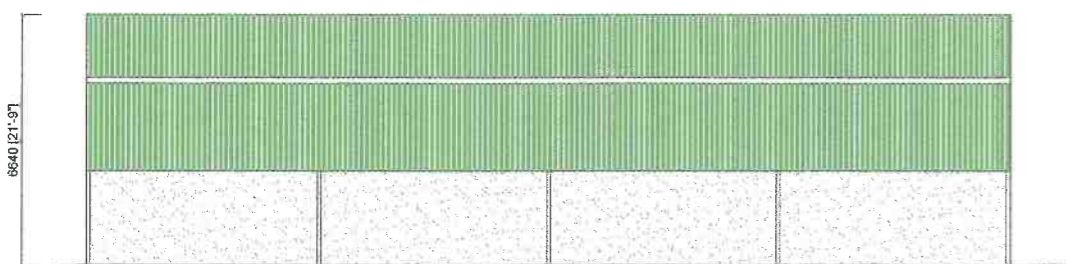
Section A-A'
Scale 1:200



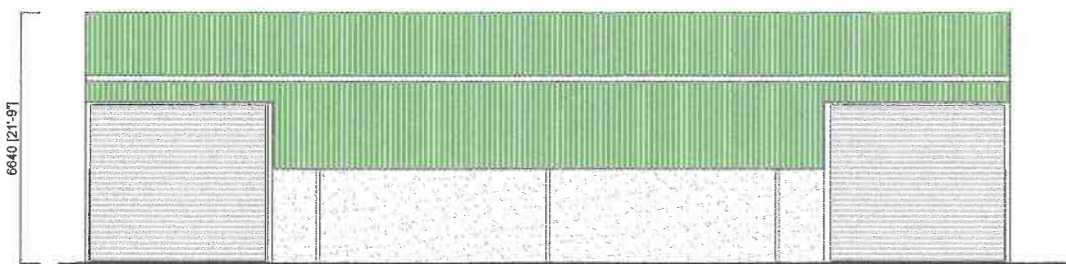
West Elevation
Scale 1:200



East Elevation
Scale 1:200



North Elevation
Scale 1:200



South Elevation
Scale 1:200



Proposal Shed

NOTE
 ALL BUILDING WORKS TO BE CARRIED OUT IN ACCORDANCE WITH THE DEPARTMENT OF AGRICULTURE AND FOOD SPES DEPARTMENT OF AGRICULTURE AND FOOD S. 100 TO S.171A MINIMUM SPECIFICATIONS FOR THE STRUCTURE OF AGRICULTURAL BUILDINGS

ALL STEEL SIZING AND DESIGN TO BE CHECKED BY AN ENGINEER PRIOR TO CONSTRUCTION

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PLANNING				
AIDAN KELLY		B.Arch. B.sc Arch Tech		
ARCHITECTURE & AGRICULTURAL DESIGN SERVICES				
MOLOUGH, NEWCASTLE, CLONMEL, CO. TIPPERARY.	TEL: 052 7462844	MOB: 085 7466211		
EMAIL: AIDANKELLY2000@YAHOO.IE				
WEBSITE: WWW.ADPS.IE				
PROJECT: Proposed building for Peter Mcswiney at Tulligmore, Dripsey, Co. Cork.				
DRAWING TITLE: Plan, section and elevations				
DRAWN BY A KELLY	DATE Aug 2023	SCALE 1:200	DWG NO. 03	JOB NO. 093