

Comhairle Contae Chorcaí Cork County Council

Adrian Curtin,
Lag Cross,
Doneraile,
Co. Cork.
P51 XP86

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Bóthar Charraig Ruacháin,
Corcaigh T12 R2NC.
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Suíomh Gréasáin: www.corkcoco.ie
Planning & Development,
County Hall,
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Tel (021) 4276891
Email: planninginfo@corkcoco.ie
Web: www.corkcoco.ie



7th March 2024

REF: D/208/24
LOCATION: Lag, Doneraile, 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 9th February 2024 the Planning Authority, having considered the question whether or not the provision of a farm road on a farm holding at **Lag, Doneraile, 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,
- Articles 6 and 9 of the Planning and Development Regulations 2001, as amended and
- The particulars received by the Planning Authority on 9th February 2024

And Whereas Cork County Council has concluded that –

The provision of a farm road on a farm holding at **Lag, Doneraile, Co. Cork constitutes development and 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.




We are Cork.



Recycled

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>

Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

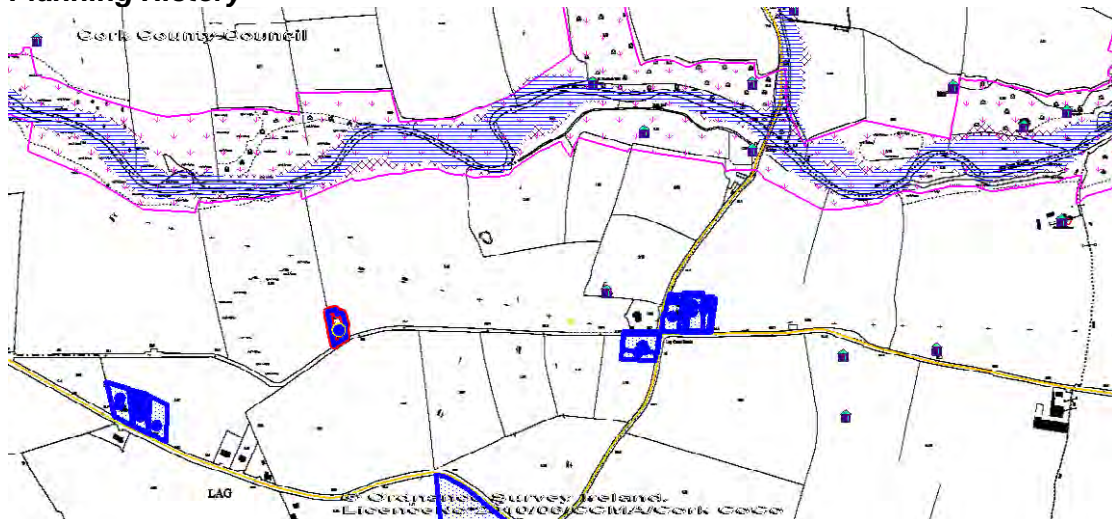
Ref No.	D/208/24
Applicant	Adrian Curtin
Description	Farm road
Location	Lag, Doneraile

Section 5 Query

The query relates to the provision of a farm road on a farm holding in the townland of Lag, Doneraile. The site is located to the west of Doneraile and to the south east of Buttevant town. The site lies on the southern side of the Blackwater River valley. The PES indicates that the site adjoins a private laneway to the north west of Lag Crossroads adjoining the L5565 and L5564. There is a ringfort to east (CO 017 067).



Planning History



Site to south west;

074493 Padraig Curtin. Construction of slatted house with underground tank, creep area and associated works. Granted.

Legislative Context

Planning and Development Act 2000, as amended

Section 2 (1)

'Works includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

Section 3 (1)

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(1) The following shall be exempted developments for the purposes of this Act—

(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;

(ia) development (other than development consisting of the provision of access to a national road within the meaning of the Roads Act 1993) that consists of— (I) the construction, maintenance or improvement of a road (other than a public road) that serves a forest or woodland, or (II) works ancillary to such construction, maintenance or improvement;

Section 4(4) states that development shall not be exempted development if an EIS or an AA is required.

The Planning and Development Regulations 2001 as amended.

Article 6(1) states that subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act provided that such development complies with conditions and limitations specified in Column 2 of said Part 1 opposite the mention of that class in said Column 1.

Article 9(1)

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

(a) if the carrying out of such development would-

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (ii) consist of or comprise the formation, layout out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4m in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main, or electricity supply line or cable, or any works to which class 25, 26 or 31(a) specified in column 1 of Part 1 of Schedule 2 applies.
- (vi) interfere with the character of a landscape or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features, or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan.
 - (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended.
 - (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.
 - (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.
- (ix) Consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of any existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.
- (x) Consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for

- recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility.
- (xi) obstruct any public right of way.
 - (xii) Further to provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.
- (b) in an area to which a special amenity area order relates, if such development would fall under (i),(ii), (iii) or (iv)
 - (c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive
 - (d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.

Assessment

The query relates to a farm road on a farm holding in the townland of Lag, Doneraile. The stated length of the road is 584m and the width is 3m. The combined measurements shown on the site plan total 580m.

The site location and site layout plans appear to indicate that the new roadway would connect with the existing laneway. There is a concrete/timber post and wire fence along the northern boundary of the laneway which has four no. entrances serving the adjoining land. The narrow laneway is less than 3m in width. While the entrances were not shown, it appears that the nearest entrance would not coincide with the potential connection with the laneway, as indicated on the site layout plan. A detailed drawing for an entrance was not attached. An aerial image suggests that the new roadway would connect with the existing farm complex inside or along the boundary of the existing lane. In response to item no. 3 of the application form, the applicant refers to the new farm roadway from the existing farmyard. While the issue could be clarified, a new entrance did not specifically form part of the Section 5 query.

The plans show the proposed road extending northwards for c.150m and then eastwards for approximately 400m. While the bulk of the road would traverse open pastureland, sections to the north east would either adjoin or overlap an existing hedgerow. There is a lack of clarity between the plans and the aerial images in this regard. The rationale for the proposal, or indeed, the end-point along a section of the hedgerow boundary, is not clear. The intended use of the road is not clear, given that farming the land utilising farm vehicles can be carried out throughout the farmland. Also, detailed drawings/sections of the proposed road, or material specifications, were not submitted. Notwithstanding the discrepancies/lack of clarity, the legislative context is outlined as follows.

Section 2 (1), Part 1 of the Planning and Development Act 2000, as amended states that 'works includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal. Section 3 (1), Part 1 of the Act states that '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'. The proposal constitutes development.

The use of the land for the purpose of agriculture is exempt in accordance with Section 4(1)(a) of the Act. The provisions of section 4(1)(ia) which relates to the development consisting of the construction, maintenance or improvement of a road (other than a public road) that serves a forest or woodland is not applicable in this case.

Article 6(1) of the Planning and Development Regulations 2001, as amended, states that subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act provided that such development complies with conditions and limitations specified in Column 2 of said Part 1 opposite the mention of that class in said Column 1.

There is no specific exemption class for a farm road.

The restrictions on exempted development as set out under article 9 of the Regulations relate to development to which article 6 applies, as opposed to section 4 of the Act. Article 9(1) (a) states that development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road, the surfaced carriageway of which exceeds 4m in width, or (iii) endanger public safety by reason of traffic hazard or obstruction of road users.

The section 5 application does not indicate that the proposed farm road relates to a specific exemption class.

In light of the above, the proposed development would constitute development and not exempted development.

While the query did not specifically include an entrance and there is a question in this regard, as referenced above, the provisions of Class 9, Schedule 2, Part 1 of the Regulations are noted, which refers to the construction, erection renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway. The height of any such structure shall not exceed 2 metres. Having regard to Article 9(1) (a) (ii) and (iii), the entrance would adjoin a private laneway and a comment would be required from the Area Engineer in relation to traffic hazard. Article 9(1)(a)(viiB) comprises development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site. The site of the potential entrance would be located in the region of 260m from the SAC and approximately 280m from the Blackwater River. While it is unlikely that an entrance at this location would have a significant impact on the integrity of the SAC, the Ecology Officer Planner considered that further particulars should be submitted. She raised a concern in relation to the potential removal of hedgerows to the north east.

Recommendation

In summary, while there is a lack of clarity in relation to some aspects of the proposal, it is considered that the farm road constitutes development and not exempted development.

Having regard to;

- (a) sections 2 and 3 of the Planning and Development Act 2000, as amended,
and
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,

it is considered that the proposed development constitutes development and not exempted development.

P Goulding
06/03/24



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

Planning Department

09 FEB 2024
Cork County Council
County Hall
Cork.

FOR OFFICE USE ONLY

Receipt No.	DLG 0043434
Cash/Cheque/ Credit Card	CARD
Date	09/02/2024
Declaration Ref. No.	D/208/24

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.

1. NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A - CONTACT DETAILS)

Adrian Curtin

2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION OF EXEMPTION IS SOUGHT:

Lag, Doneraile, Co. Cork PS1 XA86 (Home address)

Planning Department

09 FEB 2024

Cork County Council
County Hall
Cork.

3. QUESTION/DECLARATION DETAILS:

Please state the specific question for which a Declaration of Exemption is sought

Note: Only works listed and described under this section will be assessed under the Section 5 Declaration of Exemption

I intend to construct a new farm roadway leaving the existing farm yard and going through the centre of the grazing block to make access and livestock movements between the paddocks easier. All material will be brought in and no material will be dug on site eg no quarry opened on farm. There is no water courses close to the proposed roadway and no monuments on or near the proposed route. There is an SAC Area in the northern section of the farm but the roadway will not be going near this

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):	584m long Max 3m wide
(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 grazing / silage	Proposed use Farm road way
(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:	Planning Department	
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):	09 FEB 2024 Cork County Council County Hall	

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 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)	Adrian Curtin
Date	16-1-24

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	Adrian Curtin
Date	16-1-24

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	16-1-24



Proposed new farm roadway would be 120m away from the SAC that is on the farm.



The proposed new farm roadway would not come near any national sites or monuments on the farm or surrounding farms. The nearest ringfort (CO01755) will be 70m away from the outer ring of the monument see image from county planning viewer.



Planning Department
09 FEB 2024
Cork County Council
Cork

Untitled map

Adrian Curtin farm roadway layout



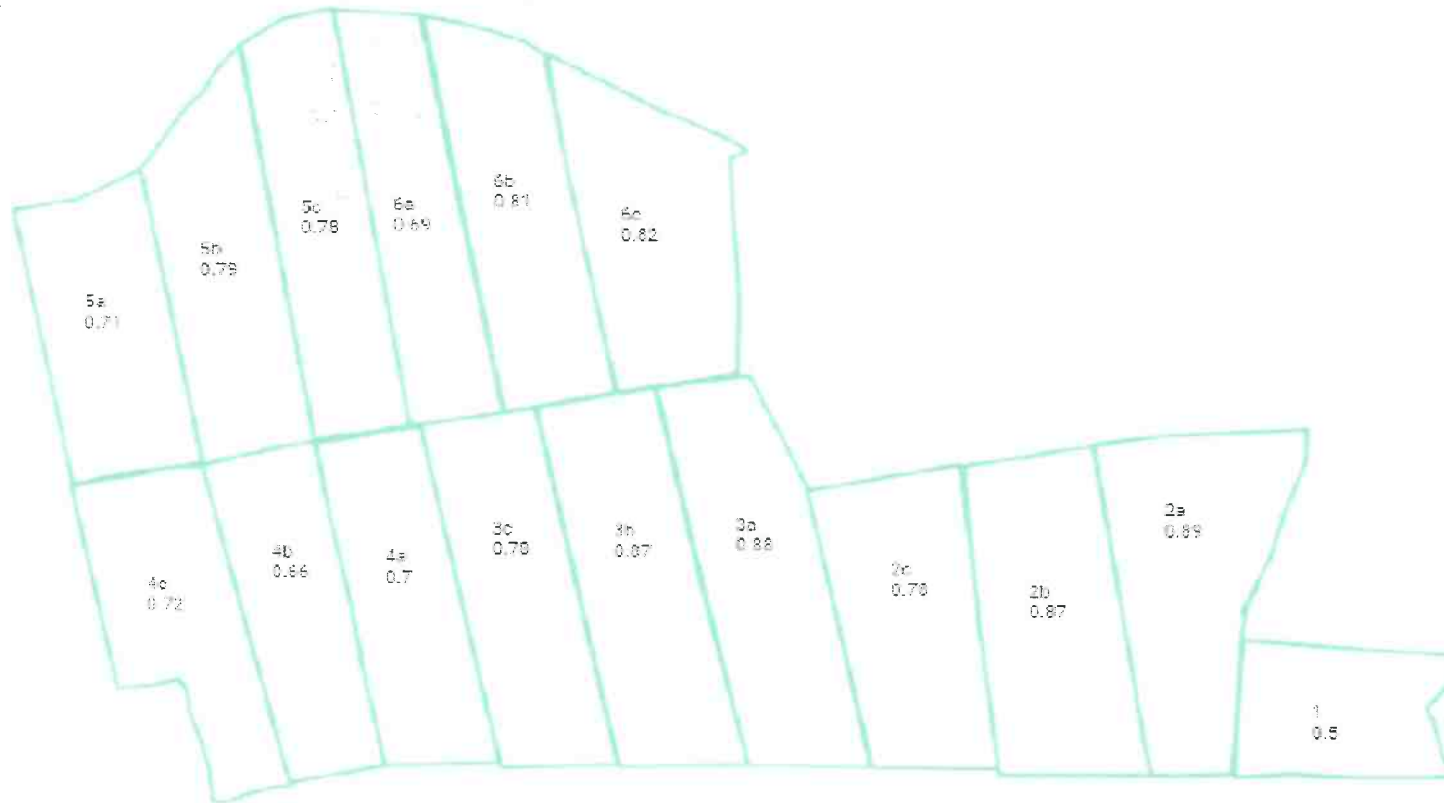
New farm roadway 584 metres





- Paddocks (12.25 ha)
- Buildings (0.00 ha)
- Lakes (0.00 ha)
- Forests (0.00 ha)
- Farm Roads (0 m)
- Public Roads (0 m)
- Water Courses (0 m)

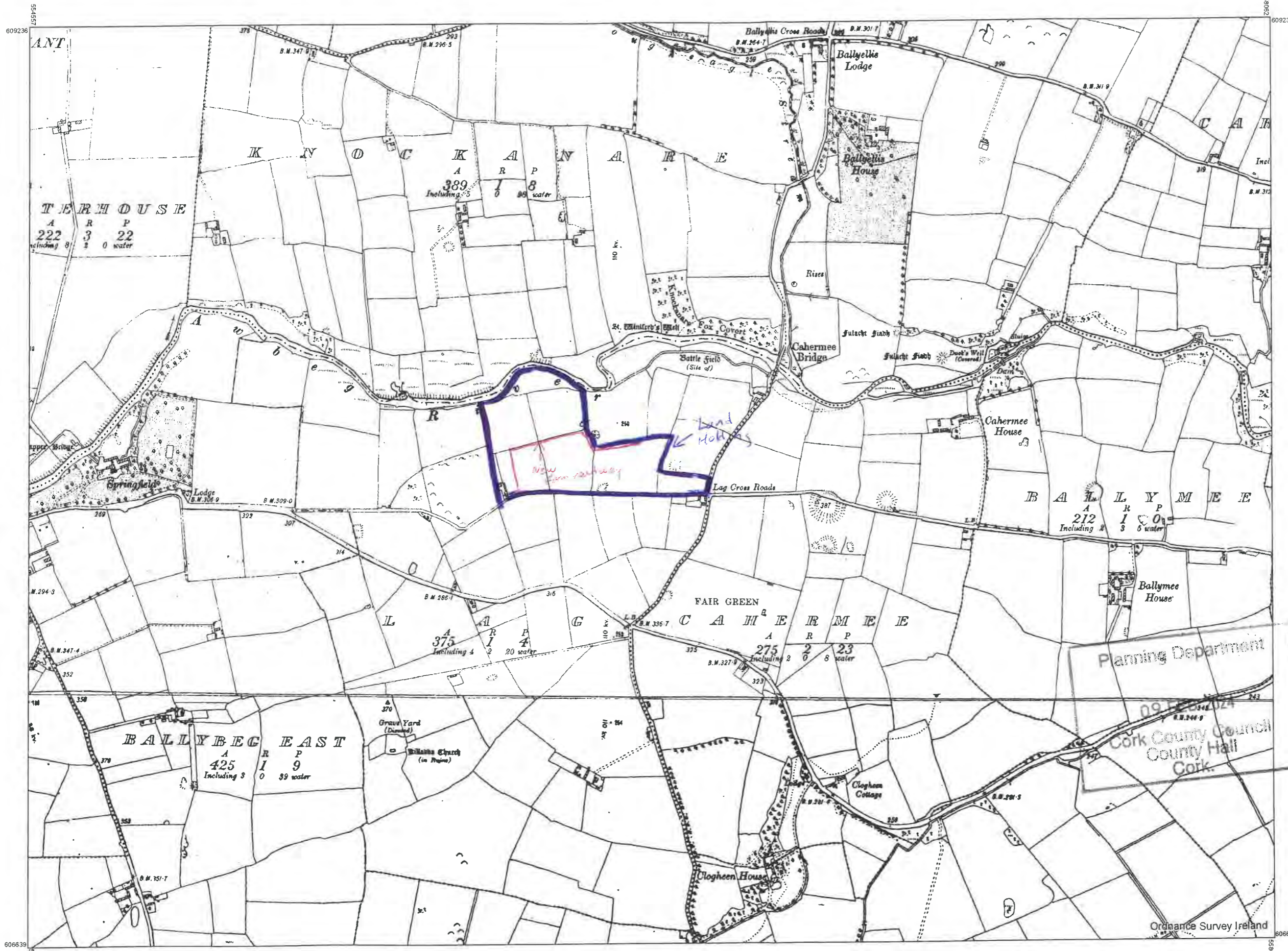
Existing Farm paddock
Layout



Site Location Map



Tailte Éireann



CENTRE COORDINATES:
ITM 556310,607938

PUBLISHED:
17/08/2023

ORDER NO.:
50352140_1

MAP SERIES:
6 Inch Raster
6 Inch Raster

MAP SHEETS:
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CK025

COMPILED AND PUBLISHED BY:
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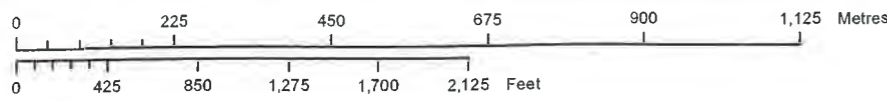
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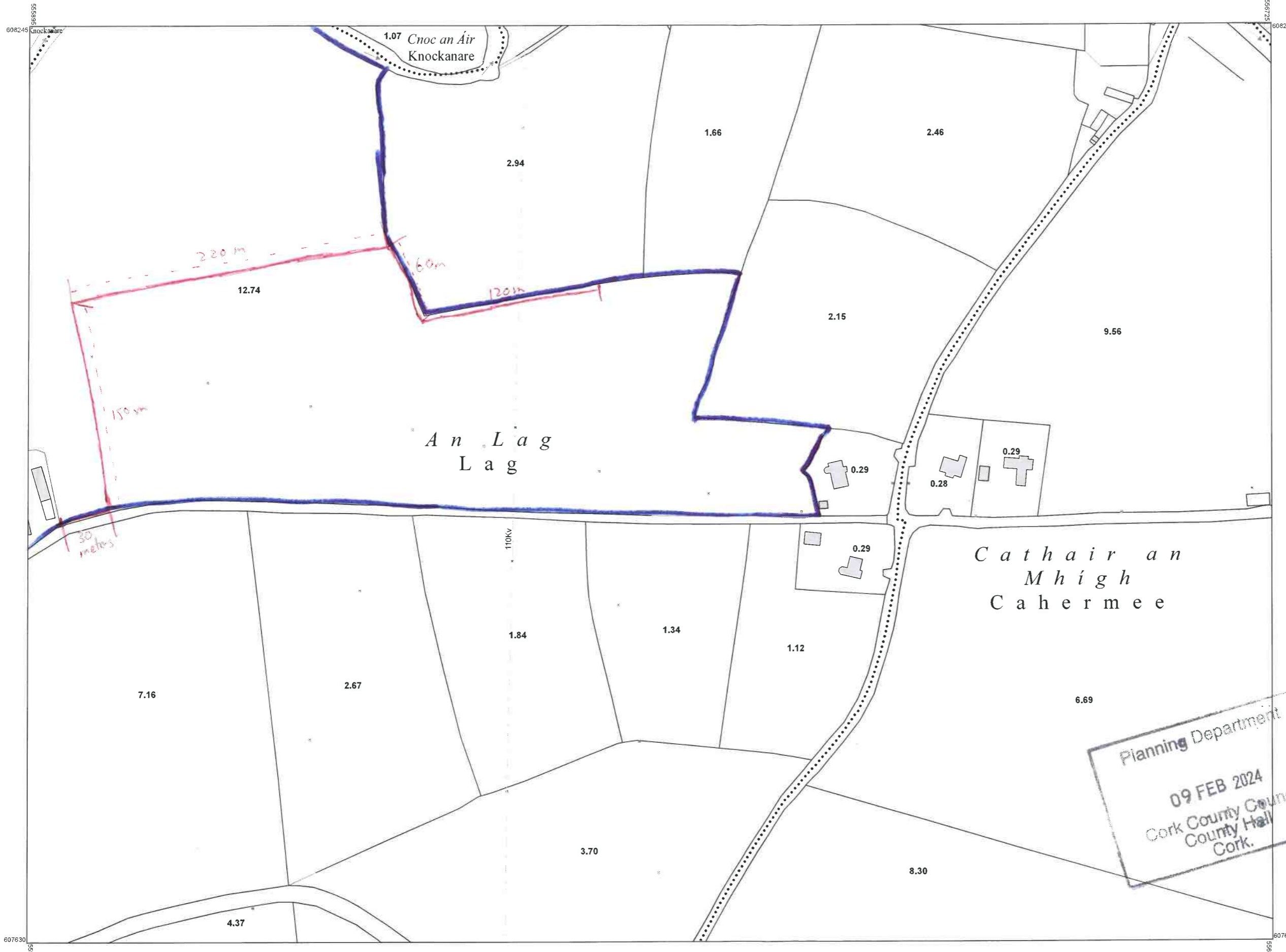


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Planning Pack Map



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CENTRE COORDINATES:
ITM 556310,607938

PUBLISHED:
17/08/2023

ORDER NO.:
50352140_1

MAP SERIES:
1:2,500
1:2,500

MAP SHEETS:
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5747-A

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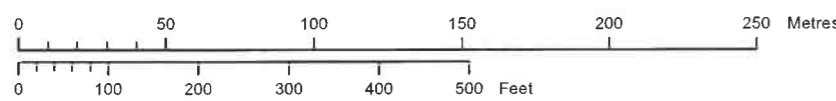
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Planning Department
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