

Comhairle Contae Chorcaí Cork County Council

Rannóg Pleanála, Teach Norton,
Bóthar Chorcaí, An Sciobairín,
Co. Chorcaí P81 AT28.
Fón: (028) 40340 • Faics (028) 21660
Suíomh Greasain: www.corkcoco.ie
Planning Section, Norton House,
Cork Road, Skibbereen,
Co. Cork P81 AT28.
Tel: (028) 40340 • Fax: (028) 21660
Web: www.corkcoco.ie



Ms. Margaret Harrington,
c/o Liam O'Donovan,
South View House,
Caherkirky,
Rossmore,
Clonakilty,
Co. Cork.

22nd November, 2023.

Our Ref: D/36/23.

RE/ Declaration request on exempted development under Section 5
of the Planning & Development Act, 2000 (as amended).

Dear Sir,

On the basis of the information and plans submitted on 25th September, 2023 and further information received on 14th November, 2023 on behalf of Ms. Margaret Harrington, the Planning Authority declares that the proposed agricultural storage shed at Maularaha, Kealkill, Bantry, Co. Cork constitutes *exempt development* given the provisions of Article 6, Schedule 2, Part 1 and the 6 No. conditions attached to Class 9 of the Planning & Development Regulations, 2001-2023.

Please note that any material departure from the proposals as submitted may remove the development from the Exempted category and require the submission of an application for Permission under the Act.

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

Receipt No. WCP12133, in respect of €80.00, is issued herewith.

Yours faithfully,


KEVIN O'REGAN
SENIOR EXECUTIVE OFFICER

REG. No. _____
PLANNING (WEST) DEPT
24 NOV 2023
CORK COUNTY COUNCIL
NORTON HOUSE, SKIBBEREEN, Co. CORK P81 AT28

Ref : D/36/23

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

Erection of a Class 9 Agricultural Storage shed at Maularaha, Keakill for Margaret Harrington

Response to Further Information

This application was deferred on the 9th October 2023 in order that evidence be submitted that bona fide farming activities were taking place on this land not least since there was no farm dwellinghouse and/or other farm building on the sizeable land holding at Maularaha, Keakill (edged blue). The planning report dated 4th October 2023 had however noted the numerous silage bales in situ on the 2nd October 2023 but equally was aware that machinery sheds for agricultural machinery have been sought elsewhere and where there was no obvious agricultural justification. The submission of such evidence is simply a prerequisite to safeguard the integrity of the planning system.

In response the agent has submitted sufficient information including details of the number of animals, heard number D1120817, the amount of lime purchased on what appear well fertilised pasture lands, together with other invoices which would remove any doubt that the machinery shed is required. It has been indicated that the proposed building would house a tractor, manure spreader, topper, silage bale handler roller and a loader. The size of the building 127.40 square metres is proportionate to this machinery. This being the case an “*exemption certificate*” can be issued on the basis that the building is directly related to “*agriculture.*”

Recommendation

Having regard to the information provided in the submitted plans and particulars received on the 25th September 2023 and the further information received on the 14th November 2023, the proposed agricultural storage shed constitutes ‘*exempt development*’ given the provisions of Article 6, Schedule 2, Part 1 and the six conditions attached to Class 9 of the Planning and Development Regulations 2001-2023.



P. O'Sullivan:
Executive Planner
17th November 2023

Ref : D/36/23

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

Erection of a Class 9 Agricultural Storage shed at Maularaha, Keakill for Margaret Harrington

Background

An application has been submitted as to whether the above “*development*” constitutes “*exempt development*.”

The site was inspected on the 2nd October 2023, the lands are flat down to good pasture with an open field drain to the north west and south east, see enclosed photographs in appendix. The submitted plans received on the 25th September 2023 indicates a proposed storage shed on these lands at Maularaha, Keakill in a remote rural area and there are no existing farm building(s) and /or dwellinghouses close to the site and/or within 100 metres of it.

The submitted plans indicates a proposed storage shed with a rectangular building footprint being some 127.40 square metres in size with a height of 5.30 metres with a shallow pitched roof. The building would be sited exactly 10.00 metres from the L-8773-0 road there are no other building(s) in proximity simply two farm gates opposite each other together with two stacked areas of silage bales. The full extent of the landholding is shown (edged blue on plans) at lands either side of the road and these extend to a distance of around 240 metres to the north east and approximately 560 metres to the south west.

Planning History- None. One of the nearest dwellinghouses around 200 metres to the north west was permitted in November 2006 to David Andrews and Olivia Ward under planning reference 06/1595. That dwellinghouse is not related to the subject lands edged blue. Another dwellinghouse around 195 metres to the south east is not related to the subject lands edged blue.

Planning and Development Regulations 2001-2023

Under Article 6, Part 3 “*Exempted Development **Rural**” Class 9 “agricultural structures”* this allows the erection of certain agricultural structures subject to certain criteria and conditions including:

Class 9

- *It is used for agricultural purposes.*
- *Does not exceed 300 square metres.*
- *The gross floor area does not exceed 900 square metres if within 100 metres of other such structures.*
- *Shall not be situated within 10 metres of the road or effluent stored.*
- *Does not exceed 8 metres in height if within 100 metres of the road*
- *Is not within 100 metres of another dwelling, school etc unless otherwise agreed in writing.*
- *Shall be shall not be unpainted metal sheeting.*

Assessment

In terms of the size of the proposed shed at 127.40 square metres this falls below the 300 square metres maximum allowance that can be erected under Class 9 subject to conditions. Those conditions include proximity to the L-8773-0 road which at 10.00 metres is the minimum distance required and this storage shed would meet that figure exactly. Under Condition 2 this includes a limitation on the size of buildings that can be erected in the same Class 9 (900 square metres) but in this regard there are no other known Class 9 buildings in situ that can be seen from the road and the aerial photographs also confirm no such other buildings. The application form also states no other farm buildings.

The most basic requirements for this shed for the storage of machinery is that the “*development*” is related to “*agriculture*” which is defined under Section 3 of the Planning and Development Act 2000. Over the years, there have been a number of sheds that have been erected for storage of machinery, but where such machinery was not in direct association with “*agriculture*.” No information has been supplied as to what agricultural machinery is to be stored in this building and moreover no information has been supplied as to the extent of “*agriculture*” actually taking place.

At the time of the site inspection on the 2nd October 2023 there were no livestock visible on the lands and there is no known farm dwelling associated with the subject lands (edged blue). It would be fair comment to suggest that the lands appear to have been recently fertilised are down to good pasture, and the evidence of the numerous silage bales are noted, see enclosed photographs in appendix The aerial photographs (2015-2018) whilst indicating sheep on neighbouring fields also show no obvious livestock on the subject lands although sheep were present on the subject lands in the aerial photographs of 2011/2012.

As a duty of care, the applicant/agent should submit details of the compelling case to prove to the Planning Authority that the “*development*” is associated with “*agriculture*.” In addition, the location of the farm dwelling, if any, would be useful information.

Article 9 (1) (vi)- Planning and Development Regulations 2001 – 2023

Views and prospects should not be interfered with having regard to the Planning and Development Regulations 2001 – 2023 Article 9 (1) (vi). The shed lies within an area designated High Value Landscape but is remote from any Scenic Route. It is not considered that the proposed machinery shed would affect views in any manner.

Article 9 (1) (iii) Planning and Development Regulations 2001 – 2023

The L-8773-0 road that passes the site and has two existing entrance(s) to the lands (edged blue) either side of the road. There is sufficient turning/parking area within the lands and the emerging visibility from the entrance is good the alignment of the road being quite straight at this juncture with no obvious road safety issues.

SAC and SPA Screening Zone

The site lies outside the screening zones of Natura 2000 site and furthermore this development relates to a machinery shed alone with no effluent storage tanks and no obvious or apparent pathways between this SAC or SPA and the subject building. Thus “*significant impacts*” can be screened out.

Archaeology

The site is remote from any archaeological treasure the nearest being a Ringfort (CO106-003) well over 1.13 km to the west.

Recommendation

That a letter be forwarded to the applicant/agent under “*Further Information*” as follows:

This application has been submitted under Section 5 of the Planning and Development Act 2000 including the submission of the completed forms and particulars received on the 25th September 2023. Further information is however required in accordance with the Planning and Development Act 2000 Section 5 (2) (b) before a formal decision can be made on your application (Ref D/36/23)

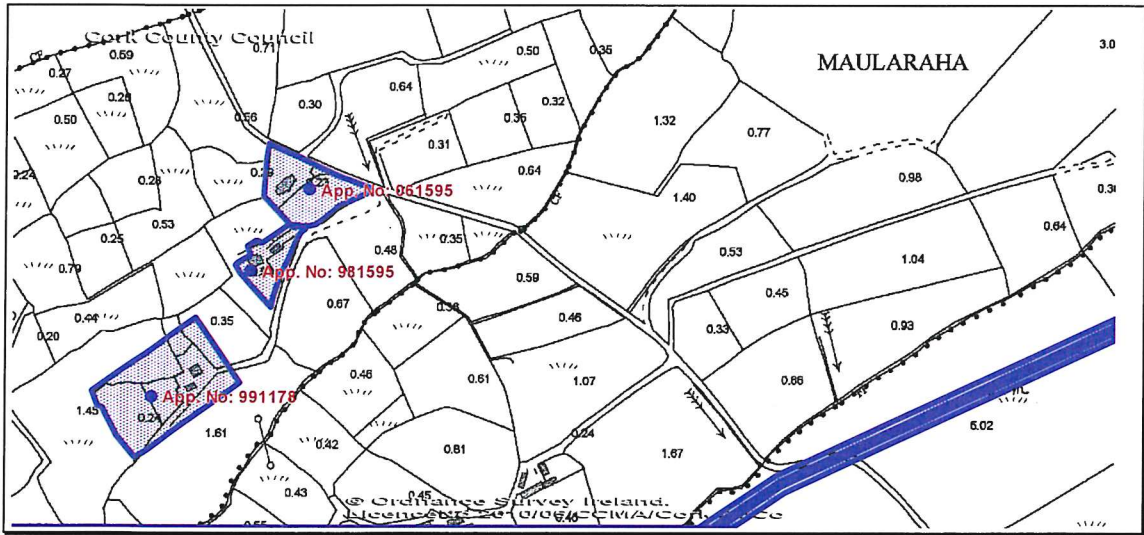
Under the Planning and Development Act 2000 Section 5 (2) (b) this states that:

“A planning authority may require Further information ... to enable the authority to issue a declaration ... and shall issue the declaration within 3 weeks of the date of receipt of the further information.”

- i. No other farm buildings and/or dwellinghouse have been indicated on this landholding (edged blue). The farm dwellinghouse, if any, of the applicant associated with this landholding edged blue is unknown. Provide any relevant details.
- ii. It has been indicated that the proposed machinery shed is required for “*agriculture.*” Submit the compelling case as to the extent of the agricultural activities that take place on these lands (edged red and blue) including any herd number, livestock, evidence of sustained agricultural activities, and the type of farm machinery to be placed in the proposed storage building etc.



P. O'Sullivan:
Executive Planner
4th October 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:**

✓
✓
✓
✓
✓
✓
✓

REG. No. _____
PLANNING (WEST) DEPT

FOR OFFICE USE ONLY

25 SEP 2023

CORK COUNTY COUNCIL
NORTON HOUSE, SKIBBEREEN, Co. CORK

Receipt No.	
Cash/Cheque/ Credit Card	
Date	
Declaration Ref. No.	

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)

MARGARET HARRINGTON

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

MAULARAHA
KEALKILL
BANTRY
CO. 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

CONSTRUCT A MACHINERY STORAGE
SHED FOR OWN FARM MACHINERY
FOR OWN USE.

REG. No. _____
PLANNING (WEST) DEPT
25 SEP 2023
CORK COUNTY COUNCIL
MORTON HOUSE, SKIBBERELI, CO. CORK

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):	EXISTING - NONE PROPOSED - 127.4 m ²
(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 type="checkbox"/> If yes, please provide floor areas (m ²) and previous planning reference(s) where applicable: N/A
(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"/>	<p>REG. NO. _____</p> <p>PLANNING (WEST) DEPT</p> <p>25 SEP 2023</p> <p>CORK COUNTY COUNCIL</p> <p>TORTON HOUSE, SKIBBEREEN, Co. CORK</p>
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)	Margaret Harrington
Date	15-9-2023

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

REG. No. _____
PLANNING (WEST) DEPT

25 SEP 2023

CORK COUNTY COUNCIL
NORTON HOUSE, SKIBBEREEN, Co. CORK

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	
Date	

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)	<i>Leam O Donovan</i>
Date	15-9-2023

REG. No. _____
 PLANNING (WEST) DEPT
 25 SEP 2023
 CORK COUNTY COUNCIL
 NORTON HOUSE, SKIBBEREEN, Co. CORK

Site Location Map



Tailte Éireann

CENTRE COORDINATES:
ITM 506054,554548

PUBLISHED:
03/09/2023

ORDER NO.:
503556035_1

MAP SERIES:
6 inch Raster

MAP SHEETS:
CK106

REG. No
PLANNING (WEST) DEPT
25 SEP 2023

CORK COUNTY
NORTON HOUSE

COMPILED AND PUBLISHED BY:
National Mapping Division of **CS**
Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
DOBFE4
www.tailte.ie

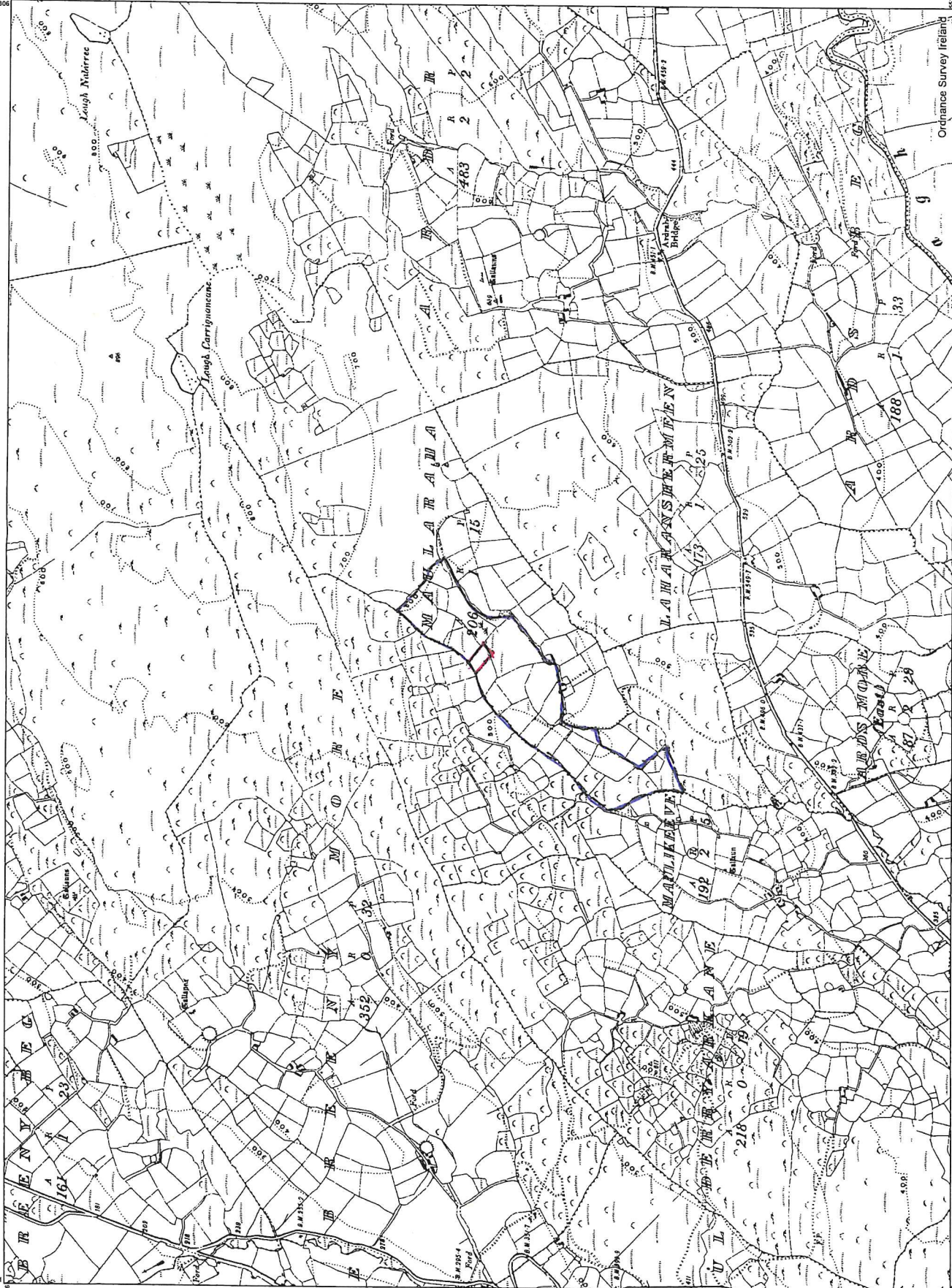
Any unauthorised reproduction infringes Tailte Éireann copyright.
No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owner.

The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

South View Designs South View Services, Rossmore, County Wick		1:10,560 SITE LOCATION MAP
Scale	1:10,560	
Applicant	Ms Margaret Harrington	
Location of site	Maularaha, Kealkill, Bantry	
Proposed Development	Agricultural Building	
Drawn by	Mr. Liam O Donovan. Ertach	
OS Map No.	106	Date
		8-9-2023



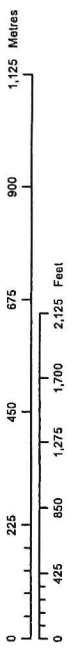
This map was produced by South View Services on behalf of Tailte Éireann in accordance with the Ordnance Survey Ireland (OS) Licence.



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

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

OUTPUT SCALE: 1:10,560



507806 55846 504301 55346

Planning Pack Map



Tailte Éireann

CENTRE COORDINATES:
ITM 506054,554548

PUBLISHED:
03/09/2023

ORDER NO.:
50355035_1

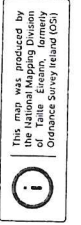
MAP SERIES:
1:5,000

MAP SHEETS:
6596

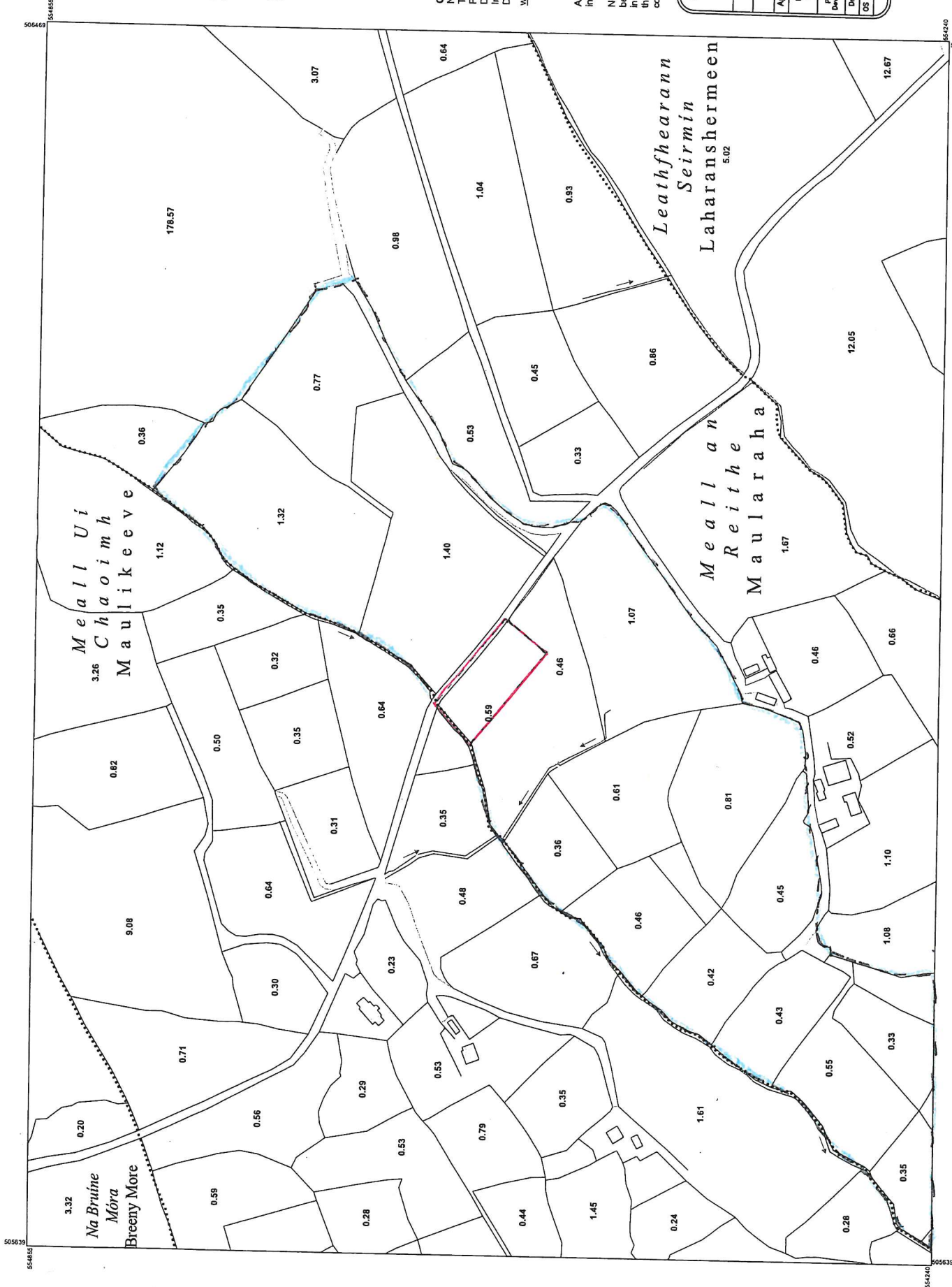
REG. No.
PLANNING (WEST) DEPT.
23 SEP 2023
WEXFORD COUNTY COUNCIL
100, HONEY HOUSE, SHERBERRY, CO. WEX.
DOBFE64
www.tailte.ie

Any unauthorised reproduction infringes Tailte Éireann copyright.
No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owner.

South View Designs Architectural Services, 100, Honey House, Sherberry, Co. Wexford.		TA (023) 860001
SITE LOCATION MAP		
Scale	1:2,500	
Applicant	Ms Margaret Harrington	
Location of site	Maularaha, Kealkil, Bantry	
Proposed development	Agricultural Building	
Drawn by	Mr. Liam O'Donovan, B/Arch.	
OS Map No.	106	
Date	6-9-2023	



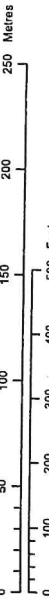
This map was produced by the National Mapping Division of the Ordnance Survey Ireland (OSI)




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.tailte.ie; Section 'Capture Resolution'

LEGEND:
The legends detail the symbols used for the various features on the map. For more information, see the 'Large Scale Legend'

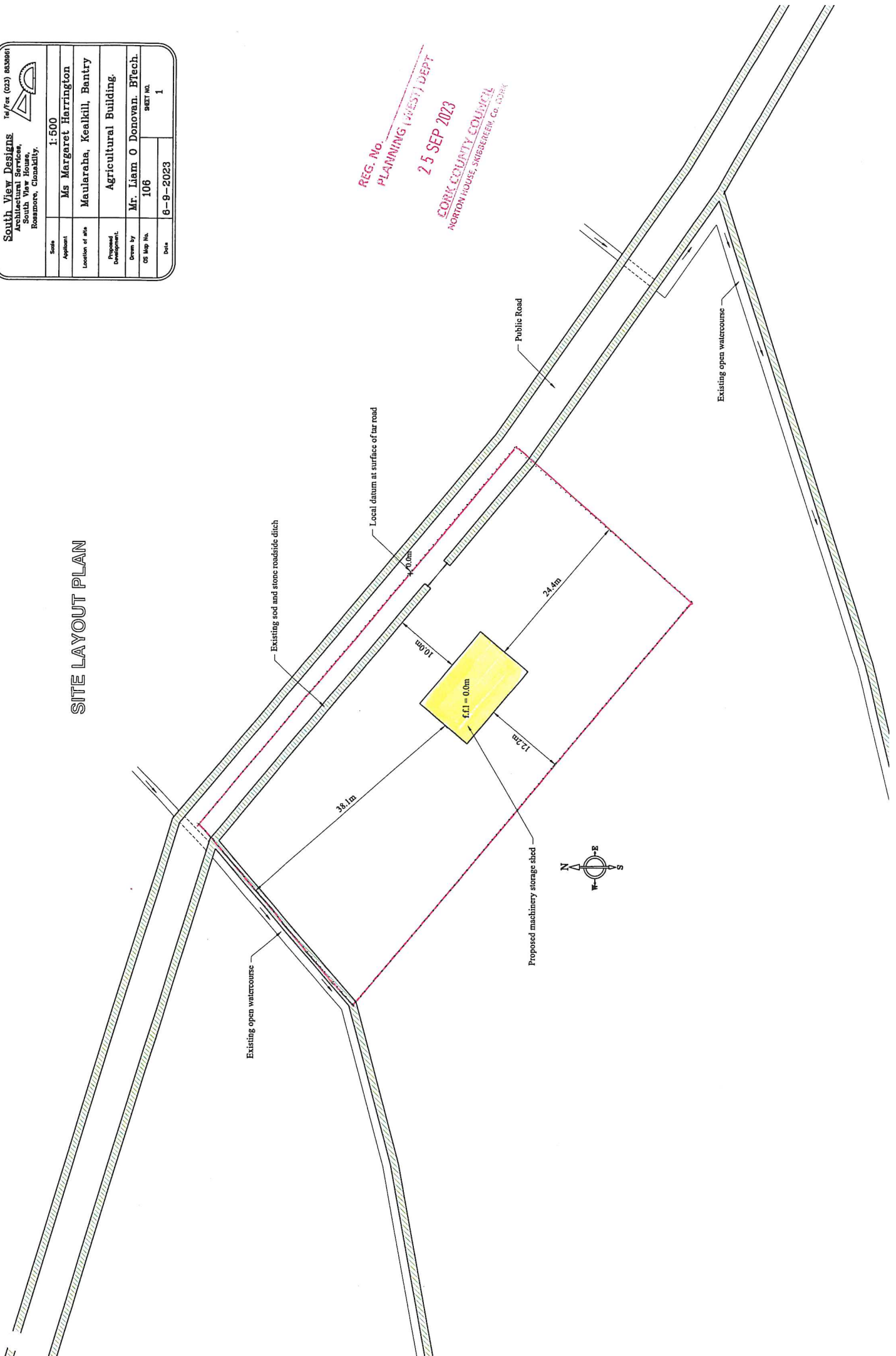
OUTPUT SCALE: 1:2,500



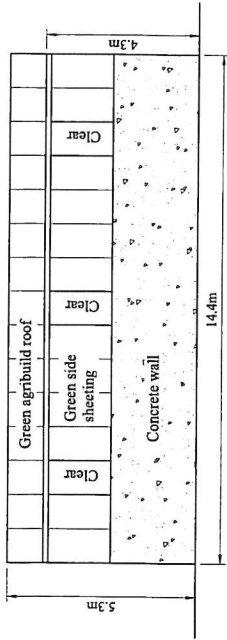
South View Designs Architectural Services, South View House, Rossmore, Clonsilla, Co. Wick.		Tel/Fax (023) 8438861 
Scale	1:500	
Applicant	Ms Margaret Harrington	
Location of site	Maularaha, Kealkill, Bantry	
Proposed Development	Agricultural Building.	
Drawn by	Mr. Liam O Donovan, B.Tech.	
OS Map No.	106	SHEET NO.
Date	6-9-2023	1

REG. NO
 PLANNING (WEST) DEPT
 25 SEP 2023
 CORK COUNTY COUNCIL
 NORTON HOUSE, SKIBBERLEEN, CO. DUBLIN

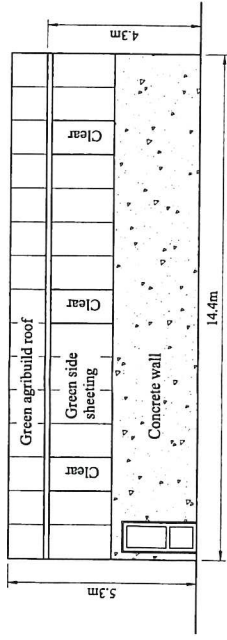
SITE LAYOUT PLAN



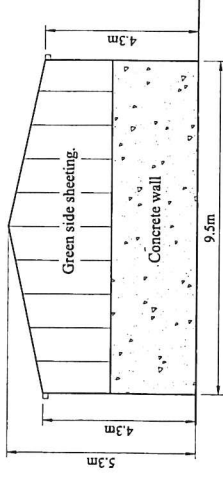
PROPOSED MACHINERY STORAGE SHED



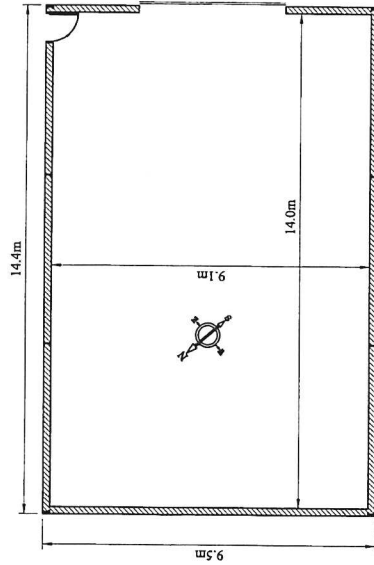
SOUTH WEST ELEVATION



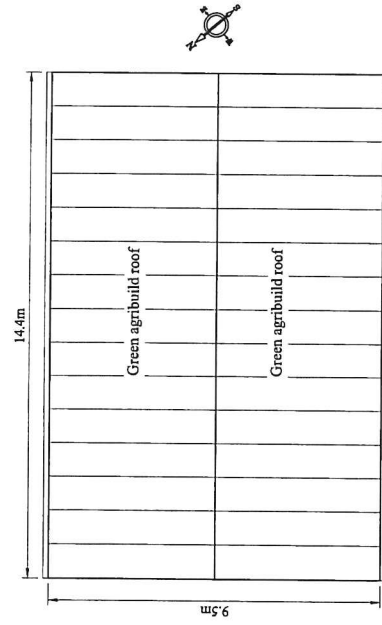
NORTH EAST ELEVATION



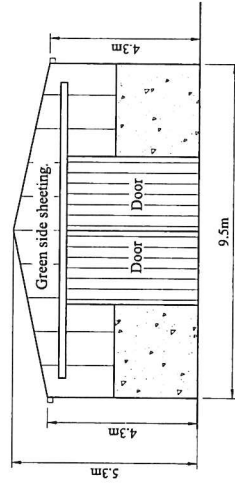
NORTH WEST ELEVATION




FLOOR PLAN



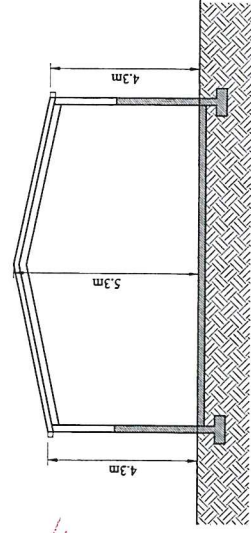
ROOF PLAN



SOUTH EAST ELEVATION

South View Designs Architectural Services, 15 The Heights, Rossmore, Clonsilla.		Tel/Fax (023) 8638961 
Scale	1:150	
Applicant	Ms Margaret Harrington	
Location of site	Maulareha, Kealkill, Bantry	
Proposed Development	Agricultural Building.	
Drawn by	Mr. Liam O Donovan, P.Ftech.	
OS Map No.	106	SHEET NO. 2
Date	6-9-2023	

REG. No
 PLANNING (WEST) DEPT
 25 SEP 2023
 CORK COUNTY COUNCIL
 NORTH HOUSE, SKIBBEREENY, Co. CO.



VERTICAL SECTION.