

# Comhairle Contae Chorcaí Cork County Council

David O'Keeffe,  
Ballinvuskig West,  
Mourneabbey,  
Co. Cork

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22<sup>nd</sup> August, 2024

REF: D/239/24  
LOCATION: Ballinvuskig West, Mourneabbey, 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 14<sup>th</sup> June and 6<sup>th</sup> August 2024 the Planning Authority, having considered the question whether or not the construction of a shed for housing sheep at **Ballinvuskig West, Mourneabbey, 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),
- Article 9(1) of the Planning and Development Regulations 2001, (as amended),
- Class 6 of Part 3, Schedule 2 of the Planning and Development Regulations 2001, (as amended) and
- The particulars received by the Planning Authority on 14<sup>th</sup> June and 6<sup>th</sup> August 2024.

**And Whereas Cork County Council has concluded that –**

- The construction of a shed for housing sheep at **Ballinvuskig West, Mourneabbey, 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,



**CATHAL DE BARÓID  
ADMINISTRATIVE 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>*

## PLANNER'S REPORT – Ref. D/239/24

**Application Type:** Section 5

**Description:** Whether a Shed for housing of sheep is or is not development or is or is not exempted development.

**Location:** Ballinvuskig West, Mourneabbey, Co. Cork

**Applicant:** David O' Keeffe

### SUMMARY OF CONCLUSION:

it is considered that the subject referral is **Development** and is **Exempted Development**.

## 1. Requirements for a Section 5 Declaration Application

Section 5(1) of the Planning and Development Act, 2000 (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. The question before the planning authority

The question is whether the following is or is not development, and is or is not exempted development, and this question can reasonably to be as follows:

*'Is the construction of a Shed for the housing of sheep exempted development?'*

## 3. Site Location and Description

The subject lands at Ballinvuskig West, Mallow adjoins with and extends Westwards from the minor County road, the L1221, and lies c. 770 m to the north of Ballinvustig Cross Roads and c. 860 m to the south of Knoppoge Bridge. This site is also sited circa 2.5 km to the East of the N20 Cork to Mallow road.

The lands are located outside of areas identified as being at risk of flooding, and it is located outside of the Screening Zone for a Natura 2000 site.

Within the subject lands there is an existing dormer style residential unit retained under Ref. 18/5517, constructed in lieu of the garage permitted under 10/5356 and extended under 15/5806, together with some groundworks for the dwelling permitted thereon on foot of 10/5356.

Desktop evaluation of Google Map 2024 photographic imagery, see Fig. 1, refers to the adjacent dwelling as having business known as 'Tiger Academy' operating from same – a Website listing refers to the latter as being a 'Beauty School'.

**Fig. 1: Google Map imagery: 2024**



The submitted OS Maps do not include a Land-Holding Map, and would require to be sought for overall clarity in relation to the proposed development.

There is a 1.5 storey dwelling and outbuildings to the East, which is sited c.500m from the R515. To the South-West, is an existing accessway, which does not appear to benefit from a Permission, and is in place with some time, which leads to a Farm Complex which appears to have formed part of the wider land-holding within its Planning history.

The Farm Complex appears to be linked to the access passage of the Applicant's dwelling (location of dwelling indicated on submitted OS Map). All of the latter would require further clarity.

#### **4. Relevant Planning Legislation and Regulations**

Section 3(1) of the Act states the following in respect of 'development': "In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."

Section 2(1) of the Act states the following in respect of 'works': "Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

Section 4(1) sets out various forms and circumstances in which development is exempted development for the purposes of the Act. Section 4 (1) (a) states that development consisting of the use of any land for the purposes of agriculture and development consisting of the use for that purpose of any building occupied together with land so used.

Section 4 (2)(a) of the Act enables certain classes of development to be deemed exempted development by way of regulation.

Section 4(4) states that notwithstanding paragraph (a) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment is required.

#### **Planning and Development Regulations, 2001 as amended.**

Article 6(3) states: Subject to Article 9, in areas other than a city, a town or an area specified in section 19 (1) (b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No.7 of 1985), development of a class specified in Column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

## **Schedule 2, Part 3 – Exempted Development**

**Class 6:** Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations states that the following are exempted development:

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 200sq.m. (whether or not by extension of an existing structure), and any ancillary provision for effluent storage. Conditions and limitations associated with Class 6 of Part 3 Schedule 2 of the Planning and Development Regulations, 2001 to 2015 state that:

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 structures situated within the same farmyard complex or within 100m of that complex shall not exceed 300sq.m. 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 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 10m of any public road.
5. No such structure shall be situated, and no effluent from such structure shall be stored, within 100m 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 on writing of the owner and, as may be appropriate, the occupier or person in charge.
6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure

### **Restrictions on exemption by virtue of Article 9(1)(a) of the Planning and Development Regulations 2001 (as amended)**

Article 9 (1) (a) provides that certain development to which Article 6 relates (i.e. exempted development) shall not be exempted in various circumstances. Article 9(1) states that: 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:

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(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.

## **5. Relevant Planning History**

### **5.1 Planning History**

A review of the Council's Planning Enquiry System shows there have been recent planning applications made in respect of the overall landholding.

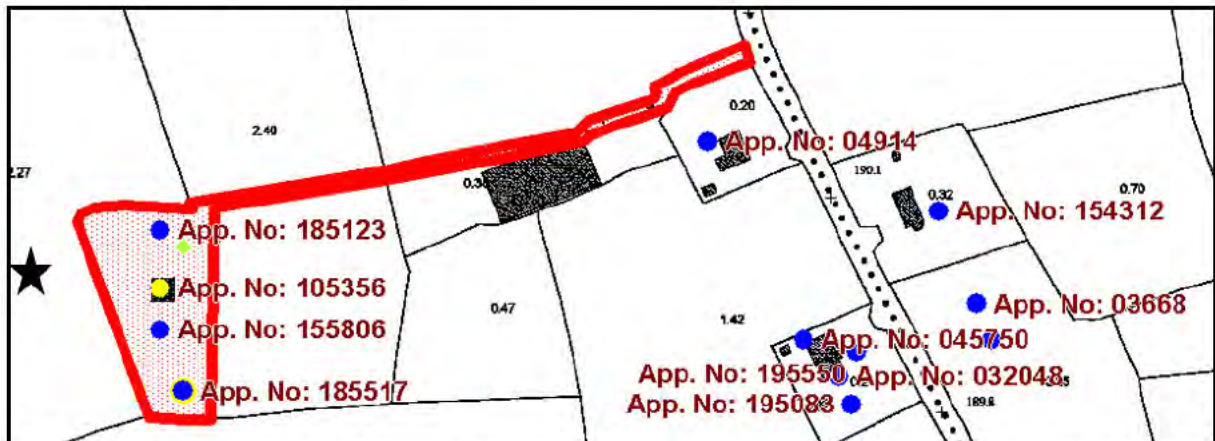


Figure 3: Extract from Planning Enquiry – location of Shed depicted with a 'Star'

### Ref. 18/05517

David O'Keeffe

**Retention Permission Granted** for an as constructed (change of plan of previously permitted garage) and permission for construction of a dormer type dwelling on existing base with single storey link and incorporation of the existing dwelling unit into same (change of plan from that permitted under Pl. Reg. No. 10/5356 and extended under Pl. Reg. No. 15/5806) and construction of detached domestic garage and associated site works.

### Ref. 15/5806

EXTENSION OF DURATION (EOD)

David O'Keeffe

**EOD Granted** for a Dwelling, domestic garage, septic tank & associated services – Extension of duration of permission granted under planning ref no: 10/5356

### Ref. 10/5356

David O'Keeffe

**Permission Granted** for a Dwelling, domestic garage, septic tank & associated services

## 6. Planning Assessment

### 6.1 Is or is not development?

Development is defined, under Section 3(1) of the Planning and Development Act, 2000 (as amended), as “the carrying out of works on, in, over or under land...” Works are defined, under Section 2(1) of this Act, as including “any act or operation of construction, excavation, demolition, extension.

The construction of a Shed for the housing of sheep consists of the carrying out of 'works' and therefore constitutes 'development', as defined in Section 3 of the Planning and Development Act 2000, as amended.

## 6.2 Is or is not exempted development?

Schedule 2, Part 3 of the Planning and Development Regulations 2001-2020 sets out classes of agricultural development which are deemed to constitute exempted development.

## 6.3 Development: Shed for housing Sheep

The Shed measures 20 m. x 9 m. and has an area of 180 sq. m., and is for the housing of sheep – it is not clear from the submitted documentation if this is proposed / or as-constructed, and would require clarity.

Class 6 of Part 3 relates to '*the provision of a roofed structure for the housing of...sheep...having a gross floor space not exceeding 200 square metres*', however; Condition 2 of this Class stipulates that the gross floor space of such a 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.

In considering the relevant conditions and limitations associated with Class 6 of Part 3 Schedule 2 I note the following:

1. No such structure shall be used for any purpose other than the purpose of agriculture.  
**The intended use is for housing sheep for the purposes of agriculture.**
2. The gross floor space of such structure together with any other structures situated within the same farmyard complex or within 100m of that complex shall not exceed 300sq.m. gross floor space in aggregate.  
**Based on the submitted details the sheep shed has a floor area of 180 sqm and so falls below the maximum size threshold for an individual structure. The Applicant has stated that '*there was a house and sheds on the farm, but were sold...*' The Land-Holding Map excludes the Farm Complex, however a Land-Registry map has not been submitted, and this would be required in support of the latter, in order to conclude that there are no other existing such structures on site, and it also falls within the permissible aggregate amount. Further, it is noted, that it appears from Google Map imagery, that there appears to be a connection from the latter Farm Complex and the access-way that serves the Family dwelling – clarity would be required.**
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 Environment and Local Government requirements and shall have regard to the need to avoid water pollution.  
**Clarity would be required to ensure that the submitted drawings state that 'All works to comply with Department of Agriculture Specifications'.  
An internal Environment Report has been received, whereby it is stated that any such structure constructed should be in compliance with S146: Minimum Specification for Wintering Facilities for Sheep. This includes the provision of an effluent tank for the**

**collection and storage of effluents generated in the sheep house. Clarity would be required from the Applicant regarding the latter also.**

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

**The structure is well in excess of 10m from the public road.**

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

**The maximum height of the structure is stated as being 3.7 m .**

6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100m 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 on writing of the owner and, as may be appropriate, the occupier or person in charge.

**The closest dwelling is the Family Home of the Applicant.**

**It appears that the dwelling associated with the Farm Complex is now a Third Party dwelling. The Application was accepted without a 1:500 scale Site Layout Map, and therefore the exact location of the structure, and its location *viz-a-viz* Third party structures would require to be clarified.**

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

**Finishes are typical agricultural galvanised cladding.**

In relation to restrictions on exemptions by virtue of Article 9(1)(a) of the Planning and Development Regulations 2001 (as amended), the following is noted:

Article 9 (1) (a) provides that certain development to which Article 6 relates (i.e. exempted development) shall not be exempted in various circumstances. Article 9(1) states that: 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:

(iii) endanger public safety by reason of traffic hazard or obstruction of road users, -

**The subject site lies within a central position within the overall landholding. However, as referred to above, there is a concern that an un-authorized commercial use with resultant traffic may be taking place at the Family Home circa and from which the same access-way the Shed would be accessed. It is considered that the overall nature and scale of the development would require further clarity in respect to whether it would or would not constitute an intensification of an un-authorized use at the overall land-holding.**

**The Area Engineer has examined the Section 5 application and raises no concerns, it is noted.**



Projects which are likely to have significant effects on the environment are identified in Annex I and Annex II of the EIA Directive, which have been transposed into Irish legislation by Part I and Part II, Schedule 5 of the Planning and Development Regulations 2001 (as amended). Agricultural sheds are not of a Class of development listed under Part 1 or 2 (Schedule 5) of the Planning and Development Regulations 2001. As such, Environmental Impact Assessment does not apply in this case. Thus, the provisions of Section 4(4) of the Planning and Development Act 2000 (as amended) are not relevant.

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly, it is considered that a sub-threshold EIAR is not required to be submitted.

## **8. APPROPRIATE ASSESSMENT**

As regards Appropriate Assessment Section 4(4) of the Planning and Development Act restricts exemption where development needs an appropriate assessment. In view of the scale and the nature and extent of the development, together with the separation and hydrological distances from the nearest European sites, it is considered that no appropriate assessment issues arise. It is considered that the development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site. Appropriate Assessment is not therefore required and the provisions of Section 4(4) of the Planning and Development Act 2000 (as amended) are not relevant.

## **9. RECOMMENDATION AND CONCLUSION**

Having regard to:

- The particulars received by the Planning Authority on 14<sup>th</sup> of June, 2024
- Section 2(1) of the Planning and Development Act, 2000, as amended,
- Section 3(1) of the Planning and Development Act, 2000,
- Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- Class 6 of Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended
- The internal Reports from the Area Engineer + Environment Section.

It is considered that the construction of a Shed for the housing of Sheep is works and amounts to development.

The issue to be considered is whether the development is exempted development or not.

Having regard to the submitted documentation, it is recommended that the Section 5 application be **deferred**, pending further information as follows:


**Further Information : D-239-24 - Section 5 application at Ballinvuskig West, Mournabbey, Co. Cork**

1. The following information shall be submitted / clarified as follows:
  - (i) Clarify if the Section 5 application relates to a proposed Shed or an -constructed Shed.
  - (ii) A Land Registry map of the overall Land-Holding shall be submitted, that is within the Legal Interest of the Applicant.
  - (iii) A 1:500 scale Site Layout Plan shall be submitted with the Shed depicted and the relevant distances to the Family Home, and the dwelling / Farm Complex to the East.
  - (iv) Clarify the exact use of the dwelling referred to as 'Family Home', and if there is any commercial activity associated with same, and if so the amount of daily / weekly traffic movements related to same.

**Note:** If the response to the above relates to a commercial use, then the Planning status of same should be stated. (If there was a commercial activity at the latter that has now ceased, this should also be clarified).
  - (v) There appears to be a physical connection between the Farm Complex to the East, which is stated as no longer being in the Applicant's legal interest, and the access-way to the 'Family Home'. The latter shall be clarified, in addition to the following:
    - it shall be clarified what sharing of provision, if any, would exist between the Shed for sheep and the existing Farm Complex.
    - If the Farm Complex is part of the overall holding, then a 1:500 scale Farm Structures Site Layout Plan shall be provided with each structure labelled, with a Legend with the area of each structure noted.

If there is a Sheep Shed, or similar existing structure thereon, this shall be clearly indicated and the area highlighted. If in place, then clarify the duration the structure has been in place, and the Planning status of same.
  - (vi) Clarify that all works comply with Department of Agriculture Specifications.

Works shall be in compliance with S146: Minimum Specification for '*Wintering Facilities for Sheep*', and this includes the provision of an effluent tank for the collection and storage of effluents generated in the sheep house. Provide details of same within the Site Layout Plan.



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**Helen O' Sullivan**  
**Area Planner**  
**10/7/2024**

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## 10. FURTHER INFORMATION RESPONSE

### 10.1 Assessment of Further Information Response

Follows is an Assessment of the Further Information Response of the Applicant:

#### Further Information : D-239-24 - Section 5 application at Ballinvuskig West, Mounreabbey, Co. Cork

- (i) Clarify if the Section 5 application relates to a proposed Shed or an -constructed Shed.

**The Section 5 application pertains to a Proposed shed.**

- (ii) A Land Registry map of the overall Land-Holding shall be submitted, that is within the Legal Interest of the Applicant.

**A Land Registry Map has been submitted, and it depicts the nearby Farm Complex to the East as being omitted. Therefore, the proposed area of 180 sq. m. of the for the Shed, would fall below the aggregate amount of 300 sq. m. from other structures situated within the same farmyard complex or within 100m of that complex, as per Class 6 of Part 3 Schedule 2**

- (iii) A 1:500 scale Site Layout Plan shall be submitted with the Shed depicted and the relevant distances to the Family Home, and the dwelling / Farm Complex to the East.

**1:500 scale Map has been submitted, which has been omitted from the submitted documents, as required, at the time the Section 5 application was lodged.**

- (iv) Clarify the exact use of the dwelling referred to as 'Family Home', and if there is any commercial activity associated with same, and if so the amount of daily / weekly traffic movements related to same.

**Note:** If the response to the above relates to a commercial use, then the Planning status of same should be stated. (If there was a commercial activity at the latter that has now ceased, this should also be clarified).

**The Applicant has stated that there is no commercial activity associated with the Family Home, other than an 'Online Shop'. This would not generate any traffic.**

- (v) There appears to be a physical connection between the Farm Complex to the East, which is stated as no longer being in the Applicant's legal interest, and the access-way to the 'Family Home'. The latter shall be clarified, in addition to the following:

- it shall be clarified what sharing of provision, if any, would exist between the Shed for sheep and the existing Farm Complex.
- If the Farm Complex is part of the overall holding, then a 1:500 scale Farm Structures Site Layout Plan shall be provided with each structure labelled, with a Legend with the area of each structure noted.  
If there is a Sheep Shed, or similar existing structure thereon, this shall be clearly indicated and the area highlighted. If in place, then clarify the duration the structure has been in place, and the Planning status of same.

**The Applicant has stated that there is no sharing of facilities with the adjacent Farm Complex (which is not in his legal interest).**

- (vi) Clarify that all works comply with Department of Agriculture Specifications.  
Works shall be in compliance with S146: Minimum Specification for 'Wintering Facilities for Sheep', and this includes the provision of an effluent tank for the collection and storage of effluents generated in the sheep house. Provide details of same within the Site Layout Plan.

**The Environment Section, have advised the Planning Authority on 21/8/2024, and advises there is no objection to the proposed development.**

### **10.2 Exempted Development Criteria : Class 6 of P&D Regulations Assessment**

The Primary Assessment considered the relevant conditions and limitations associated with Class 6 of Part 3 Schedule 2. On foot of the Response to Further Information sought, this is again Re-assessed as follows:

1. No such structure shall be used for any purpose other than the purpose of agriculture.  
**The intended use is for housing sheep for the purposes of agriculture.**
2. The gross floor space of such structure together with any other structures situated within the same farmyard complex or within 100m of that complex shall not exceed 300sq.m. gross floor space in aggregate.  
**The proposed Shed is 180 sq. m. There are no other structures relating to the latetr within the overall farm lands within the Applicant's legal ownership.**
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 Environment and Local Government requirements and shall have regard to the need to avoid water pollution.  
**The Environment Section, have Re-assessed the proposed development and Response, and raise no objection.**
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10m of any public road.  
**The structure is well in excess of 10m from the public road. The AE has Re-assessed the proposed development, and raises no objection from a traffic hazard perspective.**
5. No such structure within 100m of any public road shall exceed 8m in height.  
**The maximum height of the structure is stated as being 3.7 m .**
6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100m 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 on writing of the owner and, as may be appropriate, the occupier or person in charge.

**The closest dwelling is the Family Home of the Applicant. There is no other residential structure within 100 m., having regard for the submitted 1:500 scale plan.**

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

**Finishes are typical agricultural galvanised cladding, and are acceptable.**

### **10.3 Technical Reports**

As referred to above, this Section 5 Further Information Response has been Referred to the Area Engineer and the Environmental Scientist again. Both Sections have raised no concerns.

## **8. Recommendation and Conclusion**

In view of the above, and having regard to Section 2, Section 3 and Article 9(1) of the Planning and Development Act; as well as Schedule 2, Part 1, *Exempted Development – General*, and specifically Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001, (as amended), it is considered that the subject referral is **development** and is **exempted development**.

### **Note:**

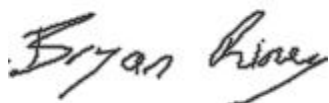
The Cover Letter issuing to the Applicant should state that the above Conclusion i.e. 'is **development** and is **exempted development**'.



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**Helen O' Sullivan**  
**Area Planner**  
**21/08/2024**

I endorse the above recommendation.



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**Bryan Riney**  
**Senior Planner**  
**21/08/2024**

## Tracy OCallaghan

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**From:** Andreana Sheehan  
**Sent:** Tuesday 13 August 2024 09:40  
**To:** Tracy OCallaghan  
**Cc:** Helen OSullivan  
**Subject:** RE: D/239/24 - Proposed agri shed, Ballinvuskig West, Mourneabbey

Tracey,

No further comment to add to this file.

Kind Regards


Andreana

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Andreana Sheehan | Executive Engineer | Roads Dept  
Cork County Council | Annabella | Mallow | P51 Y6YT | Ireland T

## Tracy OCallaghan

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**From:** David O Keefe [REDACTED]  
**Sent:** Sunday 4 August 2024 15:34  
**To:** Tracy OCallaghan  
**Subject:** Re: Section 5 D/239/24  
**Attachments:** image001.png; map scale500 (1).pdf

 External email >

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On Thu 1 Aug 2024, 12:59 PM Tracy OCallaghan, <[Tracy.OCallaghan@corkcoco.ie](mailto:Tracy.OCallaghan@corkcoco.ie)> wrote:

Email is perfect. Thanks David.

Tracy Ní Cheallacháin | Oifigeach Fóirne | Pleanáil agus Fobairt

Comhairle Contae Chorcaí | Halla an Chontae | Corcaigh | T12 R2NC | Éire

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Tairseach na gcustaiméirí: [www.yourcouncil.ie](http://www.yourcouncil.ie)

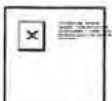
Tracy O' Callaghan | Staff Officer | Planning & Development

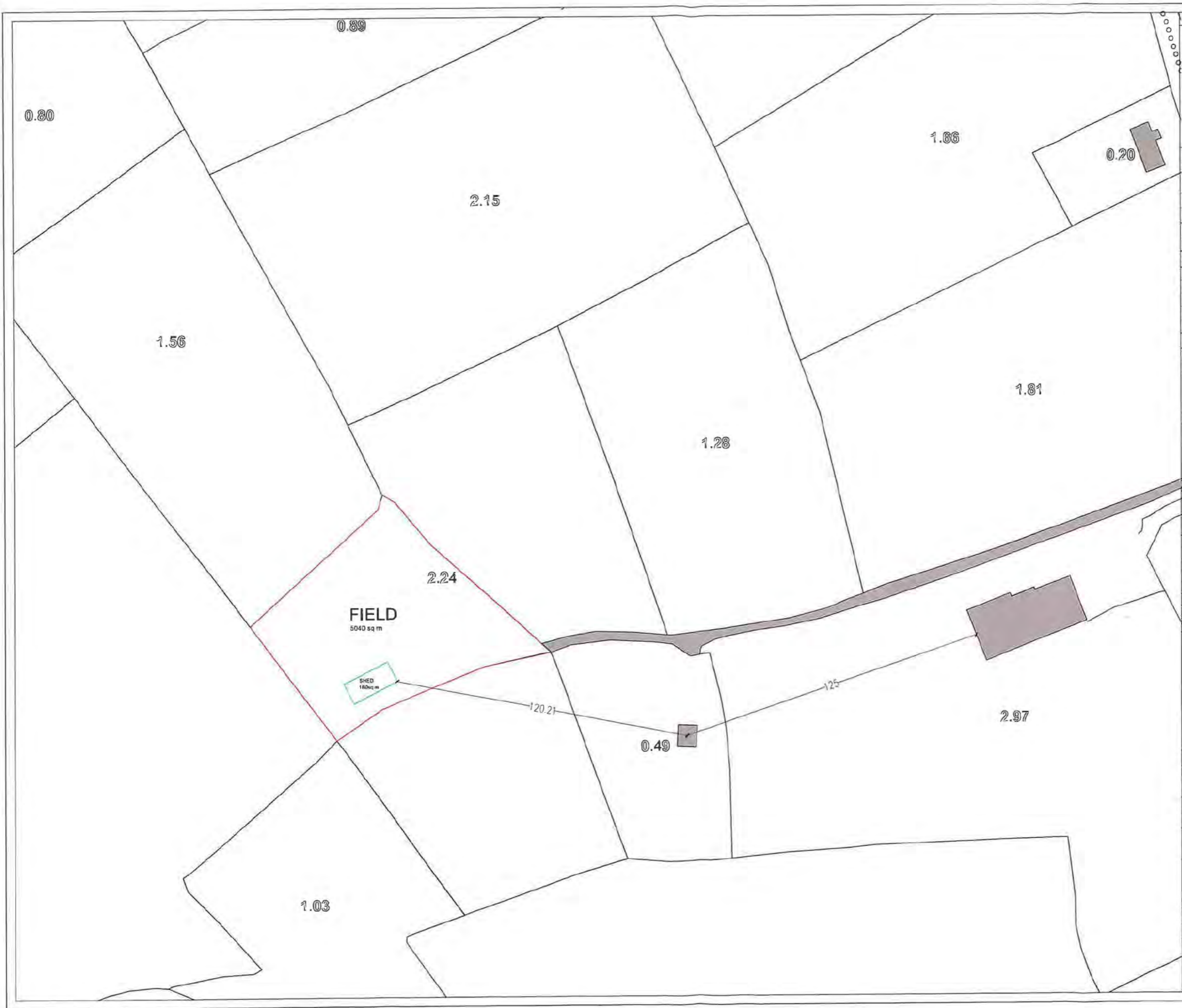
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SHEET NO. - 01

# KEY PLAN WITH NORTH POINT



- RCC WORK
- BRICK WORK
- POROTHERM WALL
- SOLID CONCRETE BLOCK WORK
- AAC BLOCK WORK

**AREA STATEMENT**

SITE AREA	XXXX.XXX SQM	
DESCRIPTION	FSI AREA (IN SQM)	NON FSI (IN SQM)
Ground Floor		
First Floor		
Total Area		
FSI		
PLOT COVERAGE (%)		

**JOINERY SCHEDULE**

TYPE	DESCRIPTION	SILL	LINTEL	SIZE
MD	Main Door	-	2400	1200 X 2400
KW	Kitchen Window	1050	2400	1500 X 1350

**FOR SPECIAL NOTES**


R.NO	DESCRIPTION	DATE
1	Entrance gate relocated	23-05

**REVISIONS**

**SIGN & SEAL WITH MARKS**

NAME : XXXX  
 REG. NO. : XXXX  
 CLASS : XXXX  
 PROJECT NAME : XXXX  
 LOCATION : XXXX  
 DRAWING TITLE : CONCEPT DRAWING  
 GROUND FLOOR PLAN



DATE : XX.XX.XXXX  
 SCALE : 1 : 500 A2 SHEET NO. : 01



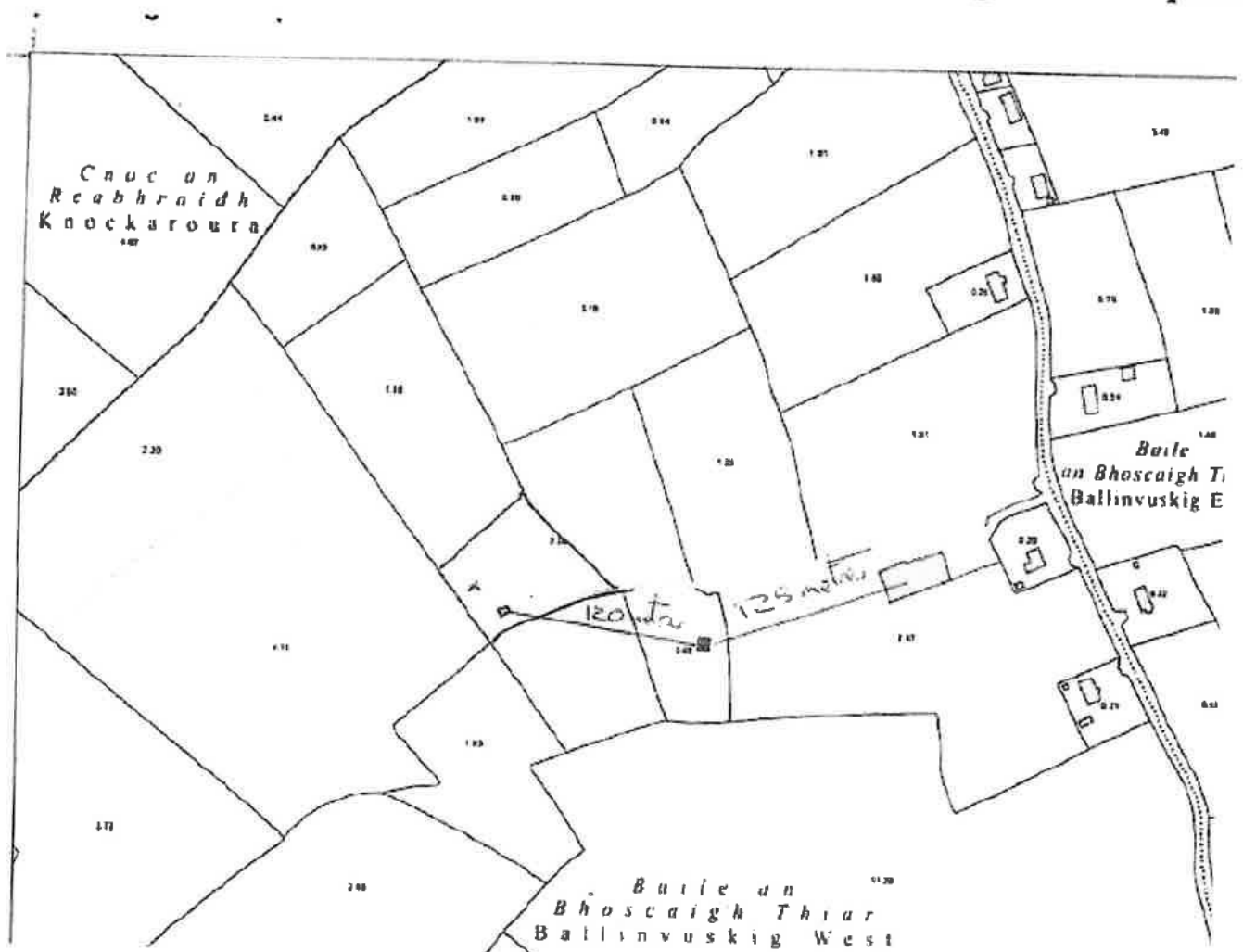
## Tracy OCallaghan

**From:** Tracy OCallaghan  
**Sent:** Thursday 1 August 2024 12:55  
**To:** [REDACTED]  
**Subject:** Section 5 D/239/24

Good Afternoon,

I am in receipt of your Further Information Response in relation to the above referenced Section 5 application. Please be advised that the site layout plan submitted as a response to Q3 is inadequate.

3. A 1:500 scale Site Layout Plan shall be submitted with the shed depicting relevant distances to the family home and the dwelling/farm complex



You are requested to submit a scaled site layout plan per the original request. A sketch on an OS map will not suffice.

Kind Regards,

Tracy Ní Cheallacháin | Oifigeach Fóirne | Pleanáil agus Fobairt  
Comhairle Contae Chorcaí | Halla an Chontae | Corcaigh | T12 R2NC | Éire  
T: 353-(0)21 - 428 5633  
[tracy.ocallaghan@corkcoco.ie](mailto:tracy.ocallaghan@corkcoco.ie) | [www.corkcoco.ie](http://www.corkcoco.ie)  
Tairseach na gcustaiméirí: [www.yourcouncil.ie](http://www.yourcouncil.ie)

**Tracy O' Callaghan | Staff Officer | Planning & Development**  
Cork County Council | County Hall | Cork | T12 R2NC | Ireland  
T +353-(0)21 - 428 5633  
[tracy.ocallaghan@corkcoco.ie](mailto:tracy.ocallaghan@corkcoco.ie) [www.corkcoco.ie](http://www.corkcoco.ie)  
**Customer Portal: [www.yourcouncil.ie](http://www.yourcouncil.ie)**



**Smaoinigh ar an timpeallacht sula ndéanann tú an ríomhphost seo a phrintáil. Please consider the Environment before printing this mail.**

# Comhairle Contae Chorcaí Cork County Council

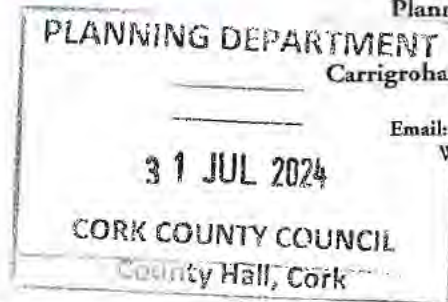
Pleanáil agus Forbairt,  
Halla an Chontae,  
Bóthar Charraig Ruacháin,  
Corcaigh T12 R2NC.  
Fón: (021) 4276891  
R-phost: [planninginfo@corkcoco.ie](mailto:planninginfo@corkcoco.ie)  
Suíomh Gréasáin: [www.corkcoco.ie](http://www.corkcoco.ie)  
Planning & Development,



David O'Keeffe,  
Ballinvuskig West,  
Mourneabbey,  
Co. Cork.

10<sup>th</sup> July, 2024

Our Ref.: D/239/24



County Hall,  
Carrigrohane Road, Cork T12 R2NC.  
Tel (021) 4276891  
Email: [planninginfo@corkcoco.ie](mailto:planninginfo@corkcoco.ie)  
Web: [www.corkcoco.ie](http://www.corkcoco.ie)

**Re: Declaration of Exempted Development under Section 5 of The Planning and Development Act 2000 – 2010.**

*Whether the proposed construction of an agricultural shed for the housing of sheep at Ballinvuskig West, Mourneabbey, Co. Cork is or is not development and is or is not exempted development.*

Dear Sir,

I refer to your application for a Declaration of Exemption in relation to the above.

It is considered that the information submitted with the Section 5 Declaration application is insufficient to enable the Planning Authority to make a determination in this case. You are therefore requested to submit the following further information :

1. Clarify if the Section 5 application relates to a proposed shed or a constructed shed. ✓
2. A land registry map of the overall landholding shall be submitted, that is within your legal interest.
3. A 1:500 scale Site Layout Plan shall be submitted with the shed depicted and the relevant distances to the family home and the dwelling/farm complex to the east.
4. Clarify the exact use of the dwelling referred to as "Family Home" and if there is any commercial activity associated with same and if so, the amount of daily/weekly traffic movements related to same.

**Note:** If the response to the above relates to a commercial use, then the Planning status of same should be stated. (If there was a commercial activity at the latter that has now ceased, this should also be clarified.

5. There appears to be a physical connection between the Farm Complex to the east, which is stated as no longer being in your legal interest, and the access-way to the "Family Home". The latter should be clarified, in addition to the following:

- It shall be clarified what sharing of provision, if any, would exist between the shed for sheep and the existing farm complex.

- If the farm complex is part of the overall holding, then a 1:500 scale farm structures site layout plan shall be provided with each structure labelled, with a legend with the area of each structure noted.
  - If there is a sheep shed, or similar existing structure thereon, this shall be clearly indicated and the area highlighted. If in place, then clarify the duration the structure has been in place and the planning status of same.
6. Clarify that all works comply with Department of Agriculture Specifications. Works shall be in compliance with S146: Minimum Specification for "*Wintering Facilities for Sheep*", and this includes the provision of an effluent tank for the collection and storage of effluents generated in the sheep house. Please provide details of same within the site layout plan.

Yours faithfully,

  
\_\_\_\_\_  
**ANGELA CARRIGY**  
**ASO 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>*

1. Clarify if the Section 5 application relates to a proposed shed or a constructed shed.

A proposed shed

2. A land registry map of the overall landholding shall be submitted, that is within your legal interest.

please find attached map form highlighted

3. A 1:500 scale Site Layout Plan shall be submitted with the shed depicted and the relevant distances to the family home and the dwelling/farm complex to the east.

please find attached map with distances highlighted

4. Clarify the exact use of the dwelling referred to as "%Family Home" and if there is any commercial activity associated with same and if so, the amount of daily/weekly traffic movements related to same. Note: If the response to the above relates to a commercial use, then the Planning status of same should be stated. (If there was a commercial activity at the latter that has now ceased, this should also be clarified).

family home meaning myself my wife and three kids are living in. There is no commercial activity, my wife has her own business but its a online shop

5. There appears to be a physical connection between the Farm Complex to the east, which is stated as no longer being in your legal interest, and the access-way to the "%Family Home". The latter should be clarified, in addition to the following:

- It shall be clarified what sharing of provision, if any, would exist between the shed for sheep and the existing farm complex.

- If the farm complex is part of the overall holding, then a 1:500 scale farm structures site layout plan shall be provided with each structure labelled, with a legend with the area of each structure noted.

- If there is a sheep shed, or similar existing structure thereon, this shall be clearly indicated and the area highlighted. If in place, then clarify the duration the structure has been in place and the planning status of same.

- there is no sharing of provisions the farm complex is not my property. We have two entrances close by on the road to each property.
- farm complex not my property
- No existing structures / sheep sheds

6. Clarify that all works comply with Department of Agriculture Specifications. Works shall be in compliance with S146: Minimum Specification for "Wintering Facilities for Sheep", and this includes the provision of an effluent tank for the collection and storage of effluents generated in the sheep house. Please provide details of same within the site layout plan

Works will be compliant with S146, the structure will have adequate spine flooring design and ventilation. As a young farmer I will be leasing with my teacher's adviser as I'm applying for Tams Grant for my sheep shed. The tank will be underground and follow all compliance and regulations. My teacher's adviser will help me finalize those details. Please see attached site layout plan and shed size with x for tank location.

**The Property  
Registration Authority  
An tÚdarás  
Clárúcháin Maoinne**



Official Property Registration Map

This map should be read in conjunction with the folio

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI Map Scale.

For details of the terms of use, and limitations as to scale, accuracy, and other conditions relating to Land Registry Maps, see [www.pra.ie](http://www.pra.ie).

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- (centre-line of parcels edged)
- Freehold
- Leasehold
- SubLeasehold
- 'S' Register

*QR*

(see Section 8(b)(ii) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

**Burdens** (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- ⊔ Soak Pit

A full list of burdens and their symbology can be found at [www.land.ie](http://www.land.ie)

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent.

(see Section 85 of the Registration of Title Act, 1964) As Inserted by Section 62 of the Registration of Deed and Title Act 2006



# Planning Pack Map



**Tailte Éireann**

*Cnoc an Reabhraidh*  
Knockaroura  
4.87

*Baile an Bhoscaigh Thoir*  
Ballinvuskig East

*Baile an Bhoscaigh Thiar*  
Ballinvuskig West

**CENTRE COORDINATES:**  
ITM 554171.595276

**PUBLISHED:** 21/03/2024 **ORDER NO:** 50401756\_1

**MAP SERIES:** 1:2,500 1:2,500 **MAP SHEETS:** 0009 B 0009 D

*Q3*

**COMPILED AND PUBLISHED BY:**  
Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland  
D08 F46 6  
01-856 5200 ext

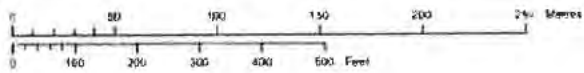
Any unauthorised reproduction infringes Tailte Éireann's copyright.

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.

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

This topographic map does not show legal property boundaries nor does it show details of physical features.

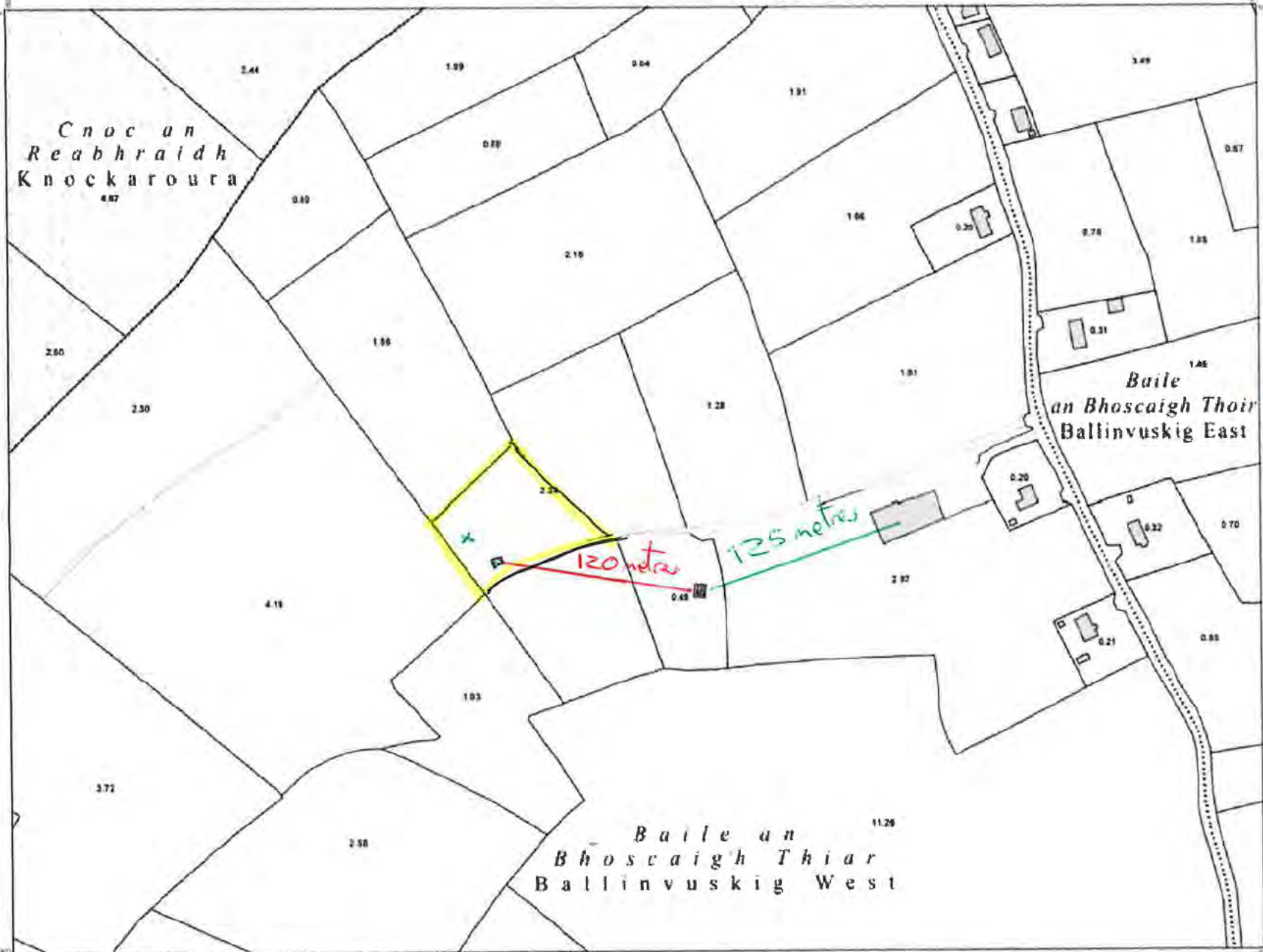
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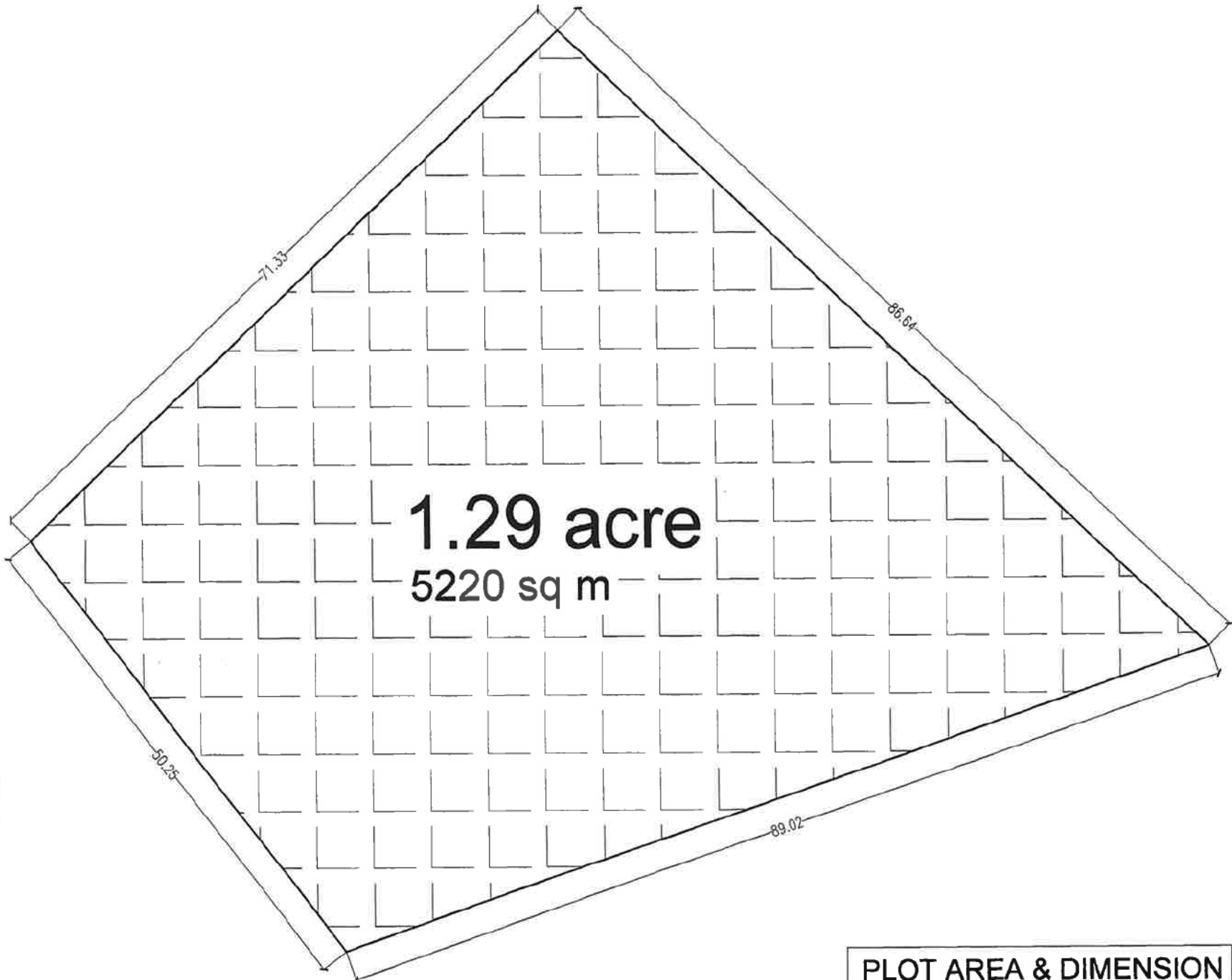
**OUTPUT SCALE:** 1:2,500

**CAPTURE RESOLUTION:**  
This map is based on data captured at the resolution at which they were collected. Tailte Éireann is not responsible for data capture quality. Further information is available at [www.dail.ie/search/CaptureResolution](http://www.dail.ie/search/CaptureResolution).

**LEGEND:**  
To view the legend click [www.dail.ie](http://www.dail.ie) and search for 'Large Scale Legend'.







1.29 acre  
5220 sq m

	RCC WORK
	BRICK WORK
	POROTHERM WALL
	SOLID CONCRETE BLOCK WORK
	AAC BLOCK WORK

AREA STATEMENT

SITE AREA	XXXXXXX SQ	
DESCRIPTION	FSI AREA	NON FSI
GROUND FLOOR		
FIRST FLOOR		
TOTAL AREA		
FS		
PLOT COVERAGE (%)		

JOINERY SCHEDULE

NO	DESCRIPTION	SILL	UNTEL	SIZE
01	MAIN DOOR	-	2400	1200 X 2400
02	KITCHEN WINDOW	1500	2400	1800 X 1800

FOR SPECIAL NOTES

1	ENTRANCE GATE RELOCATED TO SOUTHWEST	23/05/2017
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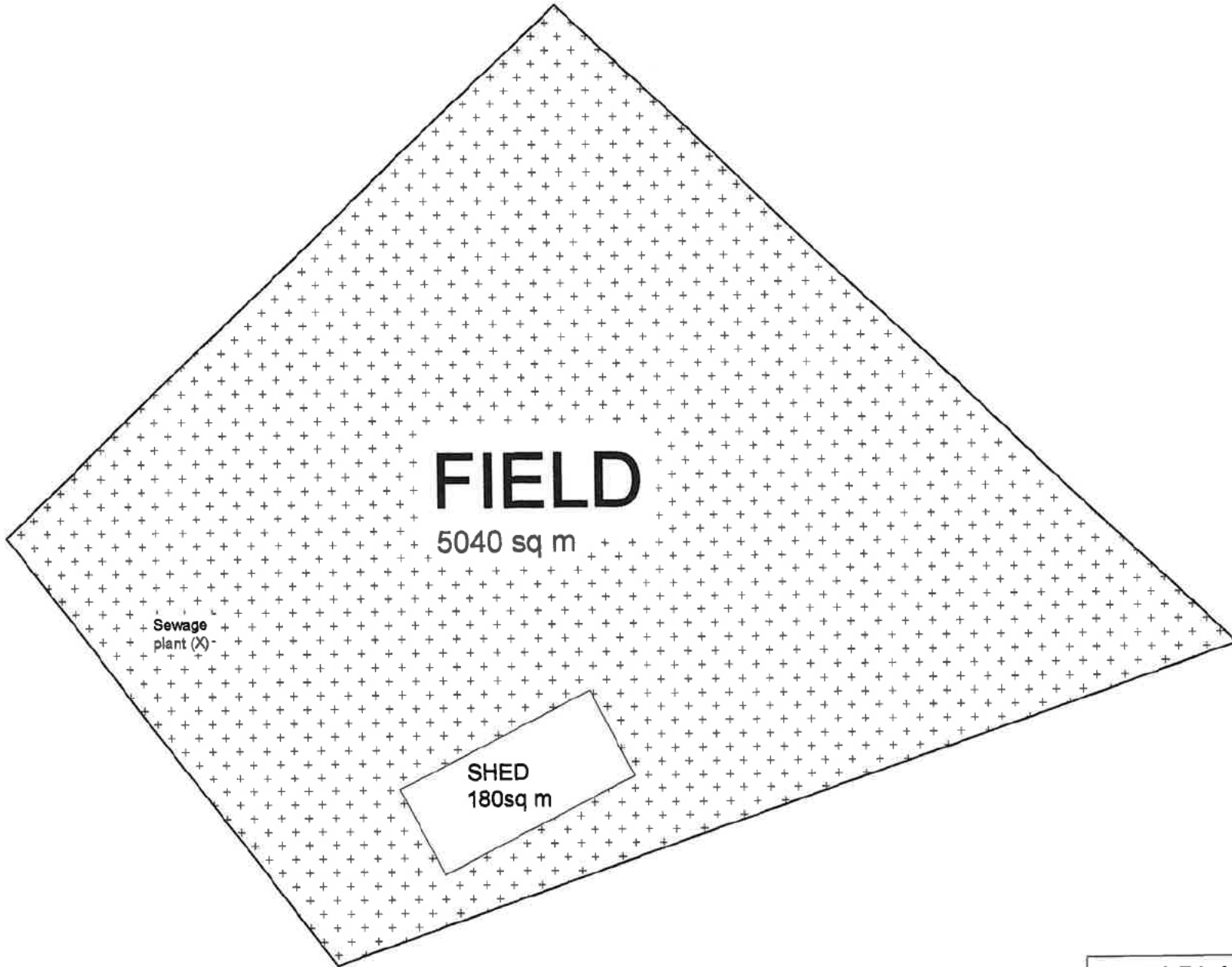
R NO	DESCRIPTION	DATE
1	REVISIONS	

SIGN & SEAL

DRAWN BY	: XXXX
DRAWN BY	: XXXX
PROJECT	: SHED
LOCATION	: XXXX
DRAWING TITLE	: Shed Floor Plan

SIGN		
DATE		: XXXX XXXX
SCALE		: 1:1 A2 SHEET NO. : 01

PLOT AREA & DIMENSION



	RCC WORK
	BRICK WORK
	POROTHERM WALL
	SOLID CONCRETE BLOCK WORK
	AAC BLOCK WORK

AREA STATEMENT

FTS AREA	XXXXXXXX
DESCRIPTION	FSM AREA NONFSM
GROUND FLOOR	
FIRST FLOOR	
TOTAL AREA	
FR	
PLOT COVERAGE (%)	

JOINERY SCHEDULE

TYPE	DESCRIPTION	SILL	LINTEL	SIZE
WF	WOOD DOOR	-	2400	1000 X 2400
WF	KITCHEN WINDOW	1200	2400	1000 X 1200

FOR SPECIAL NOTES

1	ENTRANCE GATE RELOCATED TO EASTERN BARR	25/08/2017
R NO	DESCRIPTION	DATE
1	REVISIONS	

SIGN & SEAL

DRAWN BY	: XXXX
DRAWN BY	: XXXX
PROJECT	: SHED
LOCATION	: XXXX
DRAWING TITLE	: Shed Floor Plan

SIGN	
DATE	: XX/XX/XXXX
SCALE	: 1:1:1 A3 SHEET NO. 01

**SITE PLAN**



An Roinn Talmhaíochta,  
Bia agus Mara  
Department of Agriculture,  
Food and the Marine

For Basic Payment Income Support for Sustainability  
Scheme, Areas of Natural Constraint Scheme and other  
Area Based Scheme purposes only  
Year: 2024 Scale: 1:4000

Name: DAVID O'KEEFFE  
Address: FARMHOUSE  
BALLINVUSKIG WEST  
MALLOW  
CO CORK  
P51 T6T0

Townland Code : D34802  
Townland Name: BALLINVUSKIG WEST

Parcel	Digitised	Eligible Hectare	Claimed
D3480200028	0.62	0.62	0.62
D3480200029	0.47	0.47	0.47
D3480200032	0.06	0.03	0
D3480200033	17.44	17.4	17.4
D3480200059	2.97	2.97	2.9

Exclusions	Parcel	Excl	Area	Red%	Elig	Type
D3480200028	0030	0.62	0	0.62	Forestry Plot	
D3480200029	0029	0.47	0	0.47	Forestry Plot	
D3480200032	0032	0.03	100	0	Farm Road	
D3480200033	0362	0.04	100	0	Farm Road	

Ortho Used: VSCR\_LATEST\_ORTHO

All areas displayed above are in hectares

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D3481540

Page 1 of 2 Thu Jul 25 14:36:24 2024

*Farm highlighted*





An Roinn Talmhaíochta,  
Bia agus Mara  
Department of Agriculture,  
Food and the Marine

For Basic Payment Income Support for Sustainability  
Scheme, Areas of Natural Constraint Scheme and other  
Area Based Scheme purposes only  
Year: 2024 Scale: 1:1000

Name: DAVID O'KEEFFE  
Address: FARMHOUSE  
BALLINVUSKIG WEST  
MALLOW  
CO CORK  
P51 T6T0

Townland Code : D34802  
Townland Name: BALLINVUSKIG WEST

Parcel	Digitised	Eligible Hectare	Claimed
D3480200032	0.06	0.03	0

Exclusions	Parcel	Excl	Area	Red%	Elig	Type
D3480200032	0032	0.03	100	0	Farm Road	

Ortho Used: VSCR\_LATEST\_ORTHO

All areas displayed above are in hectares

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Page 1 of 2 Thu Jul 25 14:40:56 2024

entrances





An Roinn Talmhaíochta,  
Bia agus Mara  
Department of Agriculture,  
Food and the Marine

For Basic Payment Income Support for Sustainability  
Scheme, Areas of Natural Constraint Scheme and other  
Area Based Scheme purposes only

Year: 2024 Scale: 1:1000

Name: DAVID O'KEEFFE  
Address: FARMHOUSE  
BALLINVUSKIG WEST  
MALLOW  
CO CORK  
P51 T6T0

Townland Code : D34802  
Townland Name: BALLINVUSKIG WEST

Parcel	Digitised	Eligible Hectares	Claimed
D3480200029	0.47	0.47	0.47

Parcel	Excl	Area	Red%	Elig	Type
D3480200029	0029	0.47	0	0.47	Forestry Plot

Ortho Used: VSCR\_LATEST\_ORTHO

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Page 1 of 2 Thu Jul 25 14:40:21 2024





An Roinn Talmhaíochta,  
Bia agus Mara  
Department of Agriculture,  
Food and the Marine

For Basic Payment Income Support for Sustainability  
Scheme, Areas of Natural Constraint Scheme and other  
Area Based Scheme purposes only  
Year: 2024 Scale: 1:1000

Name: DAVID O'KEEFFE  
Address: FARMHOUSE  
BALLINVUSKIG WEST  
MALLOW  
CO CORK  
P51 T6T0

Townland Code : D34802  
Townland Name: BALLINVUSKIG WEST

Parcel	Digitised	Eligible Hectare	Claimed
D3480200028	0.62	0.62	0.62

Exclusions					
Parcel	Excl	Area	Red%	Elig	Type
D3480200028	0030	0.62	0	0.62	Forestry Plot

Ortho Used: VSCR\_LATEST\_ORTHO

All areas displayed above are in hectares

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D3481540

Page 1 of 2 Thu Jul 25 14:40:41 2024



## Legend

-  Drain
-  Farm Structure
-  Forestry Plots
-  Hedge
-  Land Feature
-  Margin
-  Published Parcels
-  Utility
-  Water

David O’Keeffe,  
Ballinvuskig West,  
Mourneabbey,  
Co. Cork.

10<sup>th</sup> July, 2024

Our Ref.: D/239/24

**Re: Declaration of Exempted Development under Section 5 of The Planning and Development Act 2000 – 2010.**

***Whether the proposed construction of an agricultural shed for the housing of sheep at Ballinvuskig West, Mourneabbey, Co. Cork is or is not development and is or is not exempted development.***

Dear Sir,

I refer to your application for a Declaration of Exemption in relation to the above.

It is considered that the information submitted with the Section 5 Declaration application is insufficient to enable the Planning Authority to make a determination in this case. You are therefore requested to submit the following further information :

1. Clarify if the Section 5 application relates to a proposed shed or a constructed shed.
2. A land registry map of the overall landholding shall be submitted, that is within your legal interest.
3. A 1:500 scale Site Layout Plan shall be submitted with the shed depicted and the relevant distances to the family home and the dwelling/farm complex to the east.
4. Clarify the exact use of the dwelling referred to as “Family Home” and if there is any commercial activity associated with same and if so, the amount of daily/weekly traffic movements related to same.

**Note:** If the response to the above relates to a commercial use, then the Planning status of same should be stated. (If there was a commercial activity at the latter that has now ceased, this should also be clarified.

5. There appears to be a physical connection between the Farm Complex to the east, which is stated as no longer being in your legal interest, and the access-way to the “Family Home”. The latter should be clarified, in addition to the following:
  - It shall be clarified what sharing of provision, if any, would exist between the shed for sheep and the existing farm complex.



- If the farm complex is part of the overall holding, then a 1:500 scale farm structures site layout plan shall be provided with each structure labelled, with a legend with the area of each structure noted.
  - If there is a sheep shed, or similar existing structure thereon, this shall be clearly indicated and the area highlighted. If in place, then clarify the duration the structure has been in place and the planning status of same.
6. Clarify that all works comply with Department of Agriculture Specifications. Works shall be in compliance with S146: Minimum Specification for “*Wintering Facilities for Sheep*”, and this includes the provision of an effluent tank for the collection and storage of effluents generated in the sheep house. Please provide details of same within the site layout plan.

Yours faithfully,

---

**ANGELA CARRIGY,  
ASO 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>*

## PLANNER'S REPORT – Ref. D/239/24

**Application Type:** Section 5

**Description:** Whether a Shed for housing of sheep is or is not development or is or is not exempted development.

**Location:** Ballinvuskig West, Mourneabbey, Co. Cork

**Applicant:** David O' Keeffe

### 1. Requirements for a Section 5 Declaration Application

Section 5(1) of the Planning and Development Act, 2000 (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. The question before the planning authority

The question is whether the following is or is not development, and is or is not exempted development, and this question can reasonably be as follows:

*'Is the construction of a Shed for the housing of sheep exempted development?'*

### 3. Site Location and Description

The subject lands at Ballinvuskig West, Mallow adjoins with and extends Westwards from the minor County road, the L1221, and lies c. 770 m to the north of Ballinvustig Cross Roads and c. 860 m to the south of Knoppoge Bridge. This site is also sited circa 2.5 km to the East of the N20 Cork to Mallow road.

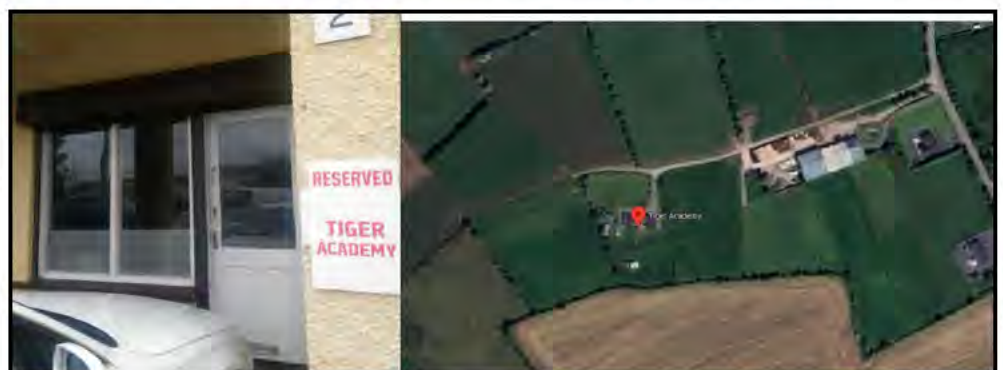
The lands are located outside of areas identified as being at risk of flooding, and it is located outside of the Screening Zone for a Natura 2000 site.

Within the subject lands there is an existing dormer style residential unit retained under Ref. 18/5517, constructed in lieu of the garage permitted under 10/5356 and extended under 15/5806, together with some groundworks for the dwelling permitted thereon on foot of 10/5356.

Desktop evaluation of Google Map 2024 photographic imagery, see Fig. 1, refers to the adjacent dwelling as having business known as 'Tiger Academy' operating from same – a Website listing refers to the latter as being a 'Beauty School'.

**Fig. 1: Google Map imagery: 2024**

The submitted OS Maps do not include a Land-Holding Map,



and would require to be sought for overall clarity in relation to the proposed development.

There is a 1.5 storey dwelling and outbuildings to the East, which is sited c.500m from the R515. To the South-West, is an existing accessway, which does not appear to benefit from a Permission, and is in place with some time, which leads to a Farm Complex which appears to have formed part of the wider land-holding within its Planning history.

The Farm Complex appears to be linked to the access passage of the Applicant's dwelling (location of dwelling indicated on submitted OS Map). All of the latter would require further clarity.

#### **4. Relevant Planning Legislation and Regulations**

**Section 3(1)** of the Act states the following in respect of 'development': "In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."

**Section 2(1)** of the Act states the following in respect of 'works': "Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

**Section 4(1)** sets out various forms and circumstances in which development is exempted development for the purposes of the Act. Section 4 (1) (a) states that development consisting of the use of any land for the purposes of agriculture and development consisting of the use for that purpose of any building occupied together with land so used.

**Section 4 (2)(a)** of the Act enables certain classes of development to be deemed exempted development by way of regulation.

**Section 4(4)** states that notwithstanding paragraph (a) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment is required.

#### **Planning and Development Regulations, 2001 as amended.**

**Article 6(3)** states: Subject to Article 9, in areas other than a city, a town or an area specified in section 19 (1) (b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No.7 of 1985), development of a class specified in Column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

#### **Schedule 2, Part 3 – Exempted Development**

**Class 6:** Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations states that the following are exempted development:

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 200sq.m. (whether or not by extension of an existing structure), and any ancillary provision for effluent storage. Conditions and limitations associated with Class 6 of Part 3 Schedule 2 of the Planning and Development Regulations, 2001 to 2015 state that:

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 structures situated within the same farmyard complex or within 100m of that complex shall not exceed 300sq.m. 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 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 10m of any public road.
5. No such structure shall be situated, and no effluent from such structure shall be stored, within 100m 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 on writing of the owner and, as may be appropriate, the occupier or person in charge.
6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure

**Restrictions on exemption by virtue of Article 9(1)(a) of the Planning and Development Regulations 2001 (as amended)**

Article 9 (1) (a) provides that certain development to which Article 6 relates (i.e. exempted development) shall not be exempted in various circumstances. Article 9(1) states that: 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:

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(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.

**5. Relevant Planning History**

**5.1 Planning History**

A review of the Council’s Planning Enquiry System shows there have been recent planning applications made in respect of the overall landholding.

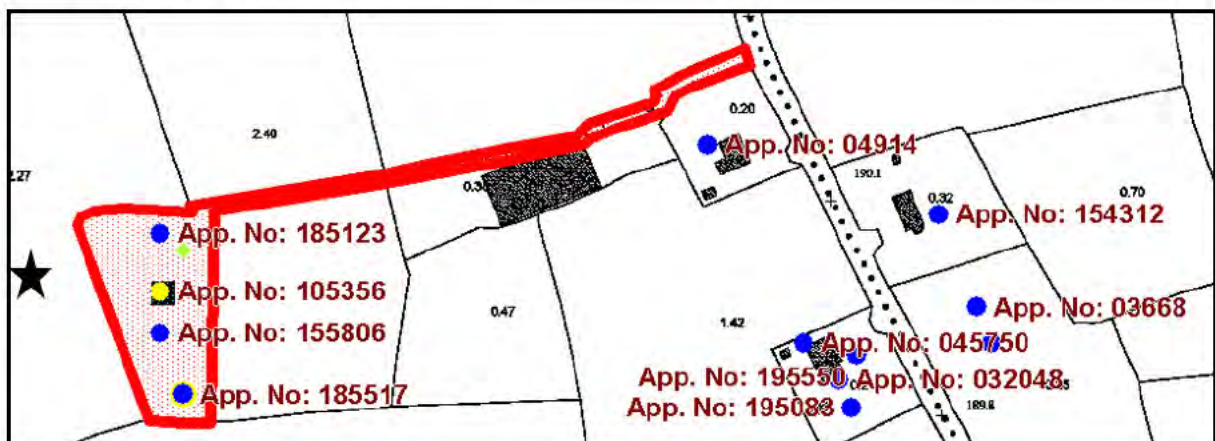


Figure 3: Extract from Planning Enquiry – location of Shed depicted with a 'Star'

**Ref. 18/05517**

David O'Keeffe

**Retention Permission Granted** for an as constructed (change of plan of previously permitted garage) and permission for construction of a dormer type dwelling on existing base with single storey link and incorporation of the existing dwelling unit into same (change of plan from that permitted under Pl. Reg. No. 10/5356 and extended under Pl. Reg. No. 15/5806) and construction of detached domestic garage and associated site works.

**Ref. 15/5806**

EXTENSION OF DURATION (EOD)

David O'Keeffe

**EOD Granted** for a Dwelling, domestic garage, septic tank & associated services –  
Extension of duration of permission granted under planning ref no: 10/5356

**Ref. 10/5356**

David O'Keeffe

**Permission Granted** for a Dwelling, domestic garage, septic tank & associated services

## 6. Planning Assessment

### 6.1 Is or is not development?

Development is defined, under Section 3(1) of the Planning and Development Act, 2000 (as amended), as “the carrying out of works on, in, over or under land...” Works are defined, under Section 2(1) of this Act, as including “any act or operation of construction, excavation, demolition, extension.

The construction of a Shed for the housing of sheep consists of the carrying out of ‘works’ and therefore constitutes ‘**development**’, as defined in Section 3 of the Planning and Development Act 2000, as amended.

### 6.2 Is or is not exempted development?

Schedule 2, Part 3 of the Planning and Development Regulations 2001-2020 sets out classes of agricultural development which are deemed to constitute exempted development.

### 6.3 Development: Shed for housing Sheep

The Shed measures 20 m. x 9 m. and has an area of 180 sq. m., and is for the housing of sheep – it is not clear from the submitted documentation if this is proposed / or as-constructed, and would require clarity.

Class 6 of Part 3 relates to ‘*the provision of a roofed structure for the housing of...sheep...having a gross floor space not exceeding 200 square metres*’, however; Condition 2 of this Class stipulates that the gross floor space of such a 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.

In considering the relevant conditions and limitations associated with Class 6 of Part 3 Schedule 2 I note the following:

1. No such structure shall be used for any purpose other than the purpose of agriculture.  
**The intended use is for housing sheep for the purposes of agriculture.**
2. The gross floor space of such structure together with any other structures situated within the same farmyard complex or within 100m of that complex shall not exceed 300sq.m. gross floor space in aggregate.  
**Based on the submitted details the sheep shed has a floor area of 180 sqm and so falls below the maximum size threshold for an individual structure. The Applicant has stated that ‘..there was a house and sheds on the farm, but were sold...’ The Land-Holding Map excludes the Farm Complex, however a Land-Registry map has not been submitted, and this would be required in support of the latter, in order to conclude that there are no other existing such structures on site, and it also falls within the permissible aggregate amount. Further, it is noted, that it appears from Google Map imagery, that there appears to be a connection from the latter Farm Complex and the access-way that serves the Family dwelling – clarity would be required.**
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 Environment and Local Government requirements and shall have regard to the need to avoid water pollution.  
**Clarity would be required to ensure that the submitted drawings state that ‘All works to comply with Department of Agriculture Specifications’.**  
**An internal Environment Report has been received, whereby it is stated that any such structure constructed should be in compliance with S146: Minimum Specification for Wintering Facilities for Sheep. This includes the provision of an effluent tank for the collection and storage of effluents generated in the sheep house. Clarity would be required from the Applicant regarding the latter also.**
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10m of any public road.  
**The structure is well in excess of 10m from the public road.**
5. No such structure within 100m of any public road shall exceed 8m in height.  
**The maximum height of the structure is stated as being 3.7 m .**
6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100m 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 on writing of the owner and, as may be appropriate, the occupier or person in charge.

**The closest dwelling is the Family Home of the Applicant.**

**It appears that the dwelling associated with the Farm Complex is now a Third Party dwelling. The Application was accepted without a 1:500 scale Site Layout Map, and therefore the exact location of the structure, and its location *viz-a-viz* Third party structures would require to be clarified.**

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

**Finishes are typical agricultural galvanised cladding.**

In relation to restrictions on exemptions by virtue of Article 9(1)(a) of the Planning and Development Regulations 2001 (as amended), the following is noted:

Article 9 (1) (a) provides that certain development to which Article 6 relates (i.e. exempted development) shall not be exempted in various circumstances. Article 9(1) states that: 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:

(iii) endanger public safety by reason of traffic hazard or obstruction of road users, -

**The subject site lies within a central position within the overall landholding. However, as referred to above, there is a concern that an un-authorized commercial use with resultant traffic may be taking place at the Family Home circa and from which the same access-way the Shed would be accessed. It is considered that the overall nature and scale of the development would require further clarity in respect to whether it would or would not constitute an intensification of an un-authorized use at the overall land-holding.**

**The Area Engineer has examined the Section 5 application and raises no concerns, it is noted.**

## **7. EIAR and SUB-THRESHOLD EIAR**

Projects which are likely to have significant effects on the environment are identified in Annex I and Annex II of the EIA Directive, which have been transposed into Irish legislation by Part I and Part II, Schedule 5 of the Planning and Development Regulations 2001 (as amended). Agricultural sheds are not of a Class of development listed under Part 1 or 2 (Schedule 5) of the Planning and Development Regulations 2001. As such, Environmental Impact Assessment does not apply in this case. Thus, the provisions of Section 4(4) of the Planning and Development Act 2000 (as amended) are not relevant.

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly, it is considered that a sub-threshold EIAR is not required to be submitted.

## 8. APPROPRIATE ASSESSMENT

As regards Appropriate Assessment Section 4(4) of the Planning and Development Act restricts exemption where development needs an appropriate assessment. In view of the scale and the nature and extent of the development, together with the separation and hydrological distances from the nearest European sites, it is considered that no appropriate assessment issues arise. It is considered that the development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site. Appropriate Assessment is not therefore required and the provisions of Section 4(4) of the Planning and Development Act 2000 (as amended) are not relevant.

## 9. RECOMMENDATION AND CONCLUSION

Having regard to:

- The particulars received by the Planning Authority on 14<sup>th</sup> of June, 2024
- Section 2(1) of the Planning and Development Act, 2000, as amended,
- Section 3(1) of the Planning and Development Act, 2000,
- Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- Class 6 of Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended
- The internal Reports from the Area Engineer + Environment Section.

It is considered that the construction of a Shed for the housing of Sheep is works and amounts to development.

The issue to be considered is whether the development is exempted development or not.

Having regard to the submitted documentation, it is recommended that the Section 5 application be **deferred**, pending further information as follows:


### **Further Information : D-239-24 - Section 5 application at Ballinvuskig West, Mourneabbey, Co. Cork**

1. The following information shall be submitted / clarified as follows:
  - (i) Clarify if the Section 5 application relates to a proposed Shed or an -constructed Shed.
  - (ii) A Land Registry map of the overall Land-Holding shall be submitted, that is within the Legal Interest of the Applicant.
  - (iii) A 1:500 scale Site Layout Plan shall be submitted with the Shed depicted and the relevant distances to the Family Home, and the dwelling / Farm Complex to the East.
  - (iv) Clarify the exact use of the dwelling referred to as 'Family Home', and if there is any commercial activity associated with same, and if so the amount of daily / weekly traffic movements related to same.



**Note:** If the response to the above relates to a commercial use, then the Planning status of same should be stated. (If there was a commercial activity at the latter that has now ceased, this should also be clarified).

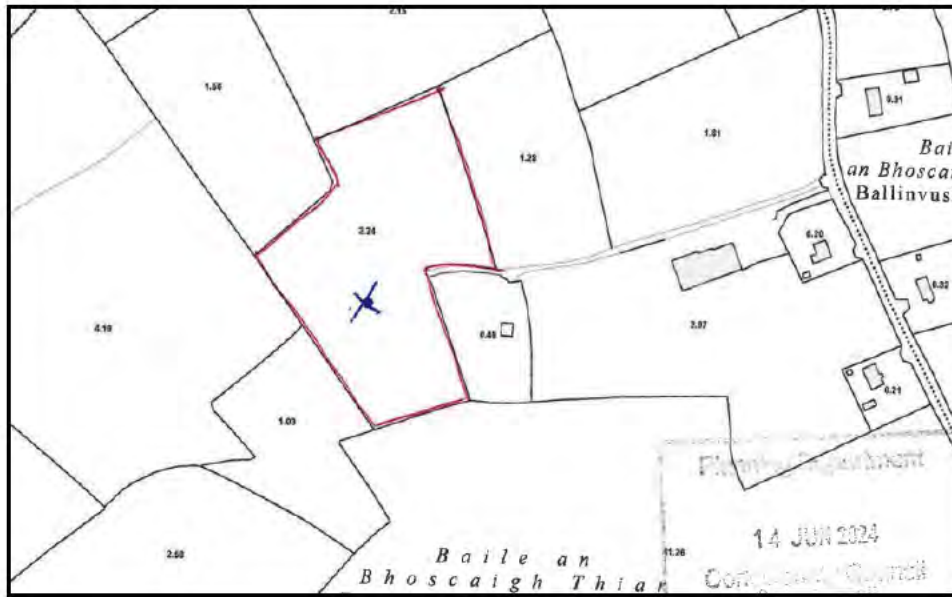
- (v) There appears to be a physical connection between the Farm Complex to the East, which is stated as no longer being in the Applicant's legal interest, and the access-way to the 'Family Home'. The latter shall be clarified, in addition to the following:
- it shall be clarified what sharing of provision, if any, would exist between the Shed for sheep and the existing Farm Complex.
  - If the Farm Complex is part of the overall holding, then a 1:500 scale Farm Structures Site Layout Plan shall be provided with each structure labelled, with a Legend with the area of each structure noted.  
If there is a Sheep Shed, or similar existing structure thereon, this shall be clearly indicated and the area highlighted. If in place, then clarify the duration the structure has been in place, and the Planning status of same.
- (vi) Clarify that all works comply with Department of Agriculture Specifications. Works shall be in compliance with S146: Minimum Specification for '*Wintering Facilities for Sheep*', and this includes the provision of an effluent tank for the collection and storage of effluents generated in the sheep house. Provide details of same within the Site Layout Plan.



---

**Helen O' Sullivan**  
**Area Planner**  
**10/7/2024**

Enclosures:



# Application for Planning Exemption

**Reference:** D/239/24

**Applicant:** David O'Keeffe

**Address** Ballinvuskig, Mourneabbey, Co. Cork

**Date:** 10<sup>th</sup> July '24

**By:** Kevin Murphy

## Details of Application

The application for planning exemption relates to the construction of a 180m<sup>2</sup> shed which is to be used for the housing of sheep on the Applicant's 29.32Ha landholding at Ballinvuskig, Mourneabbey, Co. Cork.

The shed is to be approx. 20m long x 9m wide.

## Assessment of Application

The proposed development on a green field site consists of a single building which is to be used for the housing of sheep. The proposed development appears to meet the criteria for a Class 6 exempt structure:

- A roofed structure for the housing of sheep.
- Gross floor space of less than 300m<sup>2</sup>
- Adequate effluent storage facilities and constructed to Dept of Agriculture specification – this needs to be confirmed.
- More than 300m from the public road.
- Approx 300m from the nearest 3<sup>rd</sup> party dwelling or other significant structure

The nearest watercourse is more than 100m from the proposed shed.

.

## Conclusion

I have no objection to the proposed sheep shed subject to it being constructed in compliance with S146: Minimum Specification for Wintering Facilities for Sheep. This includes the provision of an effluent tank for the collection and storage of effluents generated in the sheep house.

**END**



PLG 44654

# 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: 30 pay at reception


6 inch map 1/10/560

## FOR OFFICE USE ONLY

Receipt No.	PLG0044654
Cash/Cheque/ Credit Card	CARD
Date	14/6/24
Declaration Ref. No.	D/239/24



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 3<sup>rd</sup> 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](mailto: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)

David O Keefe

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

Ballinacraig west  
Mourneabbey  
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

In a young farmer just started my farm journey a few years ago, I inherited a farm from my father and build a family home on the farm. I'm badly stuck for animal housing I keep sheep + lambs and need a shed to work / house the animals as the weather conditions have been getting worst each year, recently there was a house and sheds on the farm but were sold as I had a huge inheritance bill hanging over me, my father had no will died suddenly at 34. As the years passed on I built a house and build / learned how to farm and I've learned can't be done without animal housing.

**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 (m<sup>2</sup>)

(a) Floor area of existing/proposed structure(s):	/
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> 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 <sup>2</sup> ) 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
(d) Are you aware of any enforcement proceedings connected to this site? Planning Department 14 JUN 2024	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 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

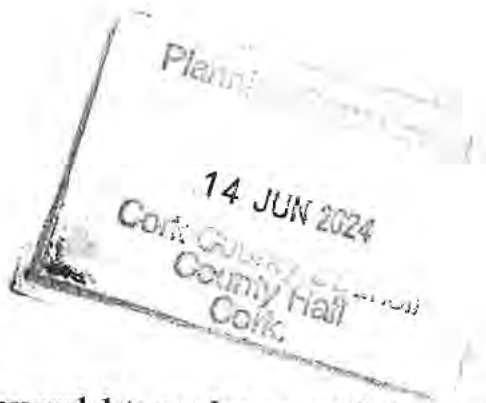
Signed (By Applicant Only)	
Date	01/06/24

**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:

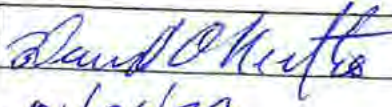
- Race
- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Concerning a natural person's sex life
- Sexual orientation



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	
Date	01/06/24

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](mailto:planninginfo@corkcoco.ie) or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: [westcorkplanninginfo@corkcoco.ie](mailto: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	02/06/24

site location map not less 1:1000

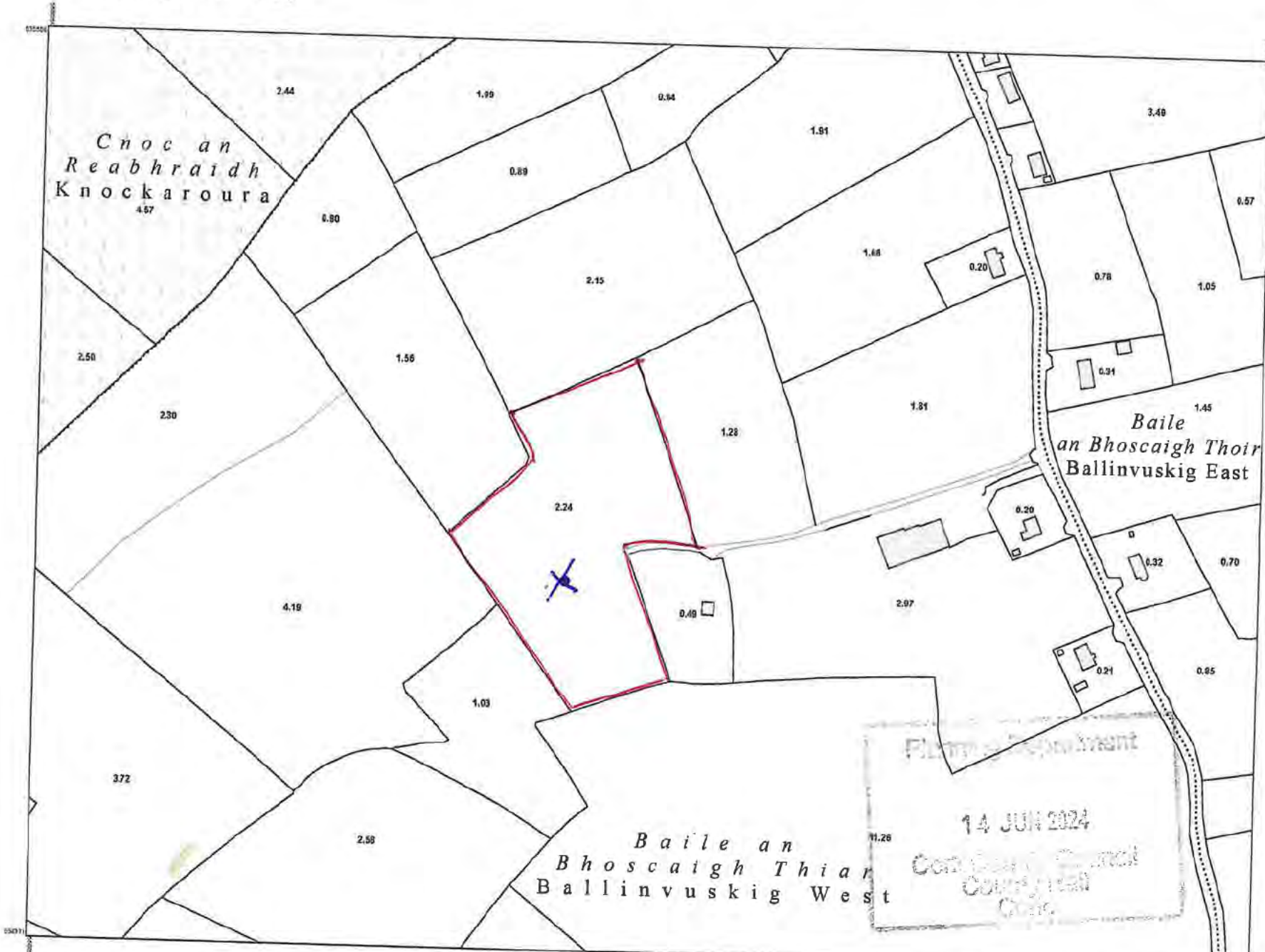




# Planning Pack Map



Tailte Éireann



Cnoc an Reabhraidh  
Knockaroura  
457

Baile an Bhoscaigh Thoir  
Ballinvuskig East

Baile an Bhoscaigh Thiar  
Ballinvuskig West

CENTRE COORDINATES:  
ITM 558471,565278

PUBLISHED:  
21/05/2024

ORDER NO.:  
50401756\_1

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

MAP SHEETS:  
800B-B  
800B-D

COMPILED AND PUBLISHED BY:  
Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland,  
D08F8E4

[www.tailte.ie](http://www.tailte.ie)

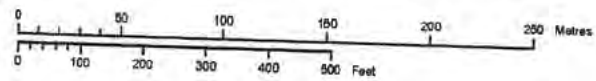
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'Large Scale Legend'



# Location Map



**Tailte Éireann**

**CENTRE COORDINATES:**  
ITM 58471.595278

**PUBLISHED:**  
21/05/2024

**ORDER NO.:**  
50401766\_1

**MAP SERIES:**  
8 inch Raster  
8 inch Raster

**MAP SHEETS:**  
CK033  
CK042

**COMPILED AND PUBLISHED BY:**  
Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08FEE4

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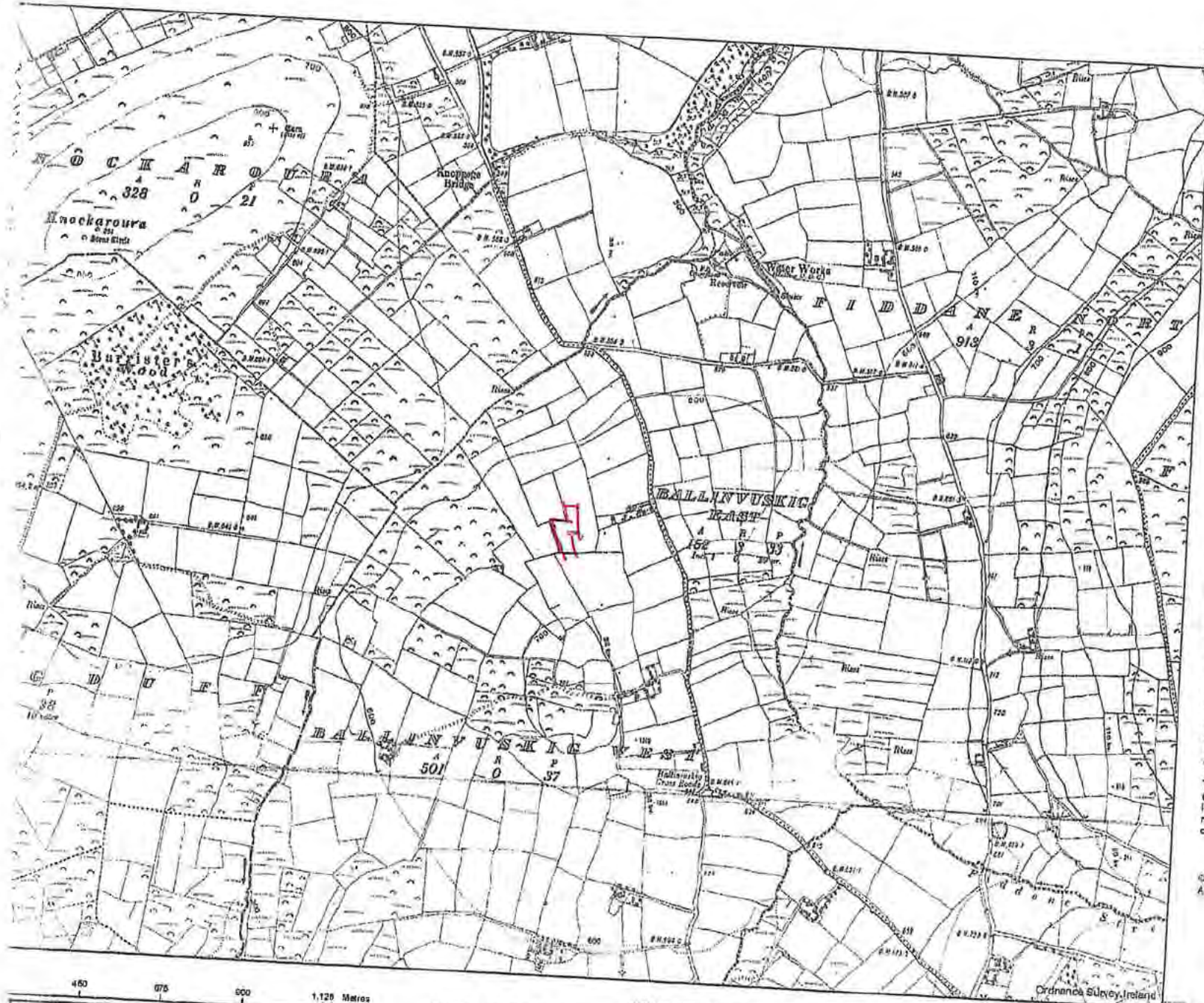
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**LEGEND:**  
To view the legend visit  
[www.tailte.ie](http://www.tailte.ie) and search for  
Large Scale Legend

Ordnance Survey, Ireland

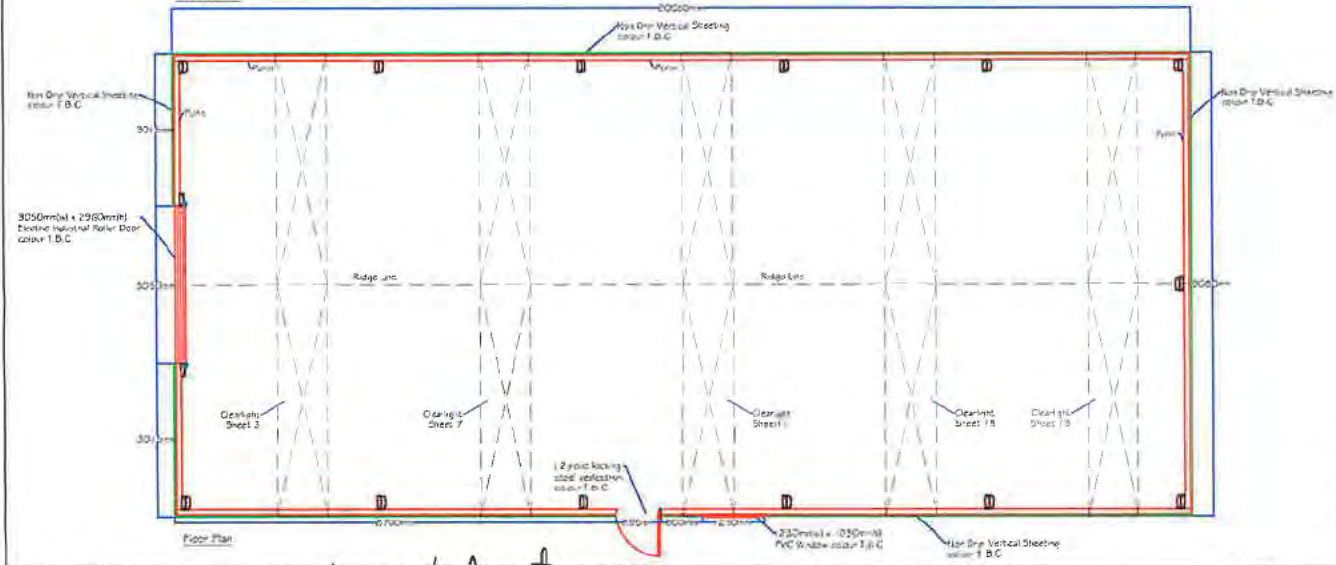
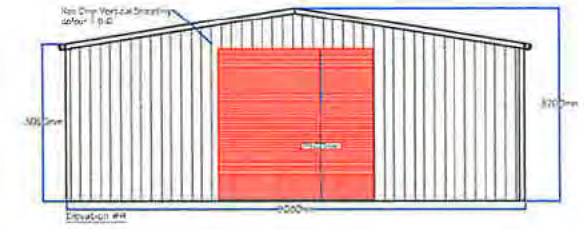
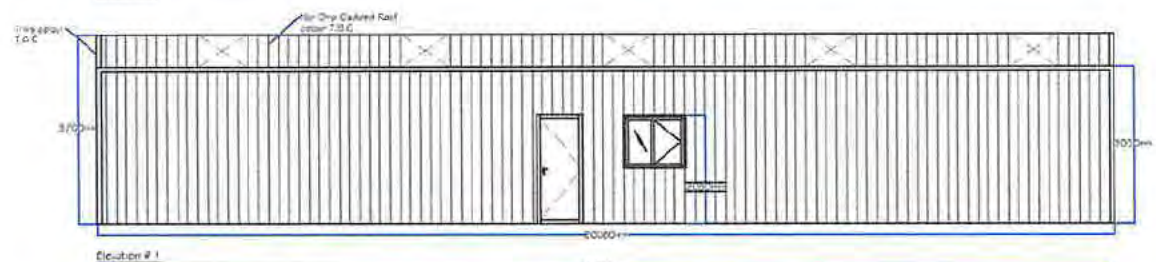
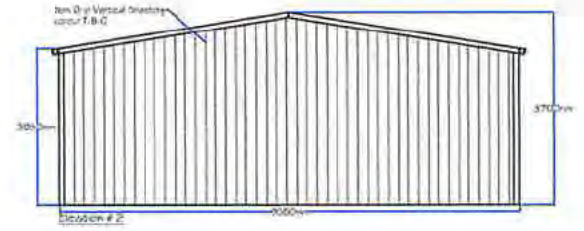
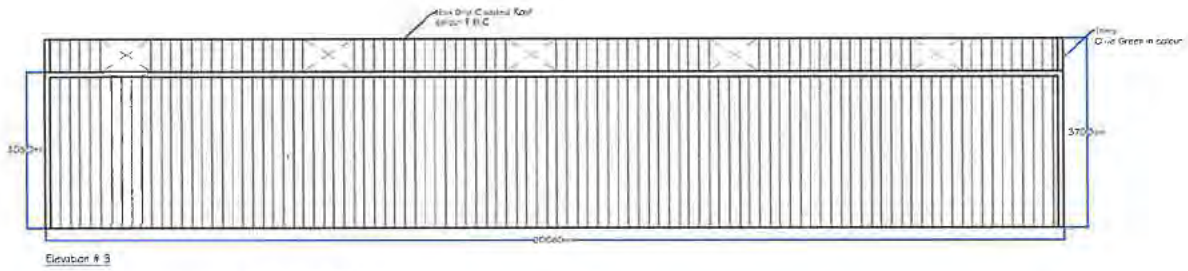
N

↑ Mallow

- Farm boundary blue
- Family home green
- sheep shed red
- road =
- existing passage way =
- scale 1:50000
- accurate shed site □

Planning Permission  
14 JUL 2014  
603





all measurements are in mm unless otherwise specified.  
 Tolerances:  
 Building limits  $\pm 15\text{mm}$   
 Building Steel components  $\pm 1\text{mm}$

Drawing Number:-

Customer Signature:-

Project Title:- *sheep shed unit*  
 20.080m x 9.080m Non Drip  
 Drawing Status:-  
 Construction Stage

Client:-  
 David O'Keefe  
 Drawing Title:-  
 Plan and Elevation

Drawn By:-  
 Richie Meares  
 Issue Date:-  
 07-06-2024

Scale:-  
 1:100 @A3  
 Revision:-

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