

Michael O'Brien,
Ballinaparka,
Kilworth,
Co. Cork
P61 XV07

12th September, 2024

REF: D/256/24
LOCATION: Ballinaparka, Kilworth, Co. Cork P61 XV07

**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 16th August, 2024 the Planning Authority, having considered whether the construction of an internal agricultural cow track approximately 300m in length and 4m in width to enable the safe movement of cows within the landholding at **Ballinaparka, Kilworth, Co. Cork P61 XV07** is or is not development or is or is not exempted development, has declared that it is **not exempted development**.

Reason for Decision

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

- The details submitted to the Planning Authority on the 16th August, 2024
- Sections 2(1), 3(1) and 4(1)(a) of the Planning and Development Act 2000 (as amended)
- Schedule 2, Article 6, Part 1 or Part 3 of the Planning and Development Regulations 2001, (as amended)

And Whereas the Planning Authority hereby decides that

The construction of an internal agricultural cow track approximately 300m in length and 4m in width to enable the safe movement of cows within the landholding constitutes works and development as defined in Sections 2 and 3 of the Planning and Development Act. The development does not come within the scope of any of the exemptions for agricultural development provided by Schedule 2, Article 6, Part 1 or Part 3 of the Planning and Development Regulations 2001, as amended. The construction of the said new internal agricultural farm track on private land is a new access track or "way" and is not the repair/improvement of an established track or way. Accordingly it would not fall within Class 13 or any other Class.

The Planning Authority therefore determines that the said works involved are development and are **not exempted development**.

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

Yours faithfully,



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

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

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: D/256/24

Description: Whether the construction of an internal agricultural cow track approx. 300m in length and 4m in width to enable the safe movement of cows within the landholding is or is not development and is or is not exempted development.

Applicant: Michael O’Brien

Location: Ballinaparka, Kilworth, Co. Cork

Date: 11th September 2024

SUMMARY OF RECOMMENDATION

It is concluded that the construction of an internal agricultural cow track approx. 300m in length and 4m in width to enable the safe movement of cows within the landholding constitutes ‘works’ and ‘development’ as defined in Sections 2 and 3 of the Planning and Development Act. The development does not come within the scope of the exemption for agricultural development provided by Part 1, Section 4(1)(a) of the Planning and Development Act 2000 and article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended.

On this basis it is considered that the proposed development **is development and is not exempted development.**

PURPOSE OF REPORT

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the 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.

SITE LOCATION

The subject site is located in the rural townland of Ballinaparka, Kilworth, Co. Cork situated approximately 4.5km northeast of Fermoy. The subject site forms part of an agricultural landholding. The surrounding lands are predominantly in agricultural use with one-off dwellings scattered throughout. The farm landholding lies either side of the R666 and to the north of the River Blackwater. The lands lie within the mapped Floodzone A&B as designated under the current Cork County Development Plan 2022. The R666 to the north of the subject site is a designated Scenic Route - S5. The lands lie within an area designated as High Value Landscape. The subject roadway adjoins but is outside of the River Blackwater SAC and is within the Blackwater Callows SPA.

SUBJECT DEVELOPMENT

The applicant proposes to construct a 300m long and 4m wide agricultural cow track to enable the safe passage of cows through the landholding to an existing underpass instead of crossing the busy R666. The subject cow track will be constructed above the level of the adjoining field on both sides with a 200-300mm base of clean permeable hardcore (100mm stone) with a 25-30mm layer of fine dust covering this. This will

allow any surface water in the adjoining field to the north of the roadway to percolate through same. The construction of the subject roadway would result in the removal of approx. 10m of existing hedgerow in total. It is proposed to replace the 10 metres of hedgerow removed with 20m of new hedgerow in another location within the landholding. The application documents outline the need for the subject farm track in terms of health and safety of the general public / existing users of the R666 and from an animal welfare point of view.

PLANNING HISTORY

A review of the Council's Planning Enquiry System shows the following recent and valid planning applications made in respect of the overall landholding:

22/4700 – Permission granted to construct a cubicle house with slatted tank and ancillary works.

17/5169 - Permission granted to construct a cattle underpass on a public road, effluent tank and ancillary works.

15/5035 - Construction of machinery shed with slatted tank, extension to holding yard shed and ancillary works.

06/5361 – Permission granted for dairy house, extension to cubicle house and above ground slurry tank.

LEGISLATIVE CONTEXT

Planning and Development Act, 2000

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.

Section 4(1) The following shall be exempted developments for the purposes of this Act—

- (a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

Planning and Development Regulations 2001 (as amended)

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,

vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(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.

ASSESSMENT

The question which arises in this case is:

Whether the construction of an internal agricultural cow track approx. 300m in length and 4m in width to enable the safe movement of cows within the landholding is or is not development and is or is not exempted development.

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 an agricultural cow track to enable the safe movement of cows within the landholding 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.

Is or is not exempted development?

Article 6(1) defines the scope of exempted development for the purposes of the Act as referred in Section 4(2) of the Planning and Development Act 2000.

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, while Part 1 relates to General Exemptions.

The construction of an internal agricultural cow track does not fall within any of the specific classes on any of the listed exemption.

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

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 construction of the proposed farm track will have a positive impact on road safety as it will enable the safe passage of cows under the public road through the applicant's permitted underpass. Therefore, it is considered that the proposed development would not 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.

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). An agricultural roadway/track is 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.

APPROPRIATE ASSESSMENT

As regards Appropriate Assessment Section 4(4) of the Planning and Development Act restricts exemption where development needs an appropriate assessment. The proposal was referred to the Council's Ecology Section, and it is considered that:

“Provided the works are done in the summer, I see no issues. The relatively small works and the distance from the main channel are enough for me to consider there to be no risk of significant impacts to the SAC. Regarding disturbance to SPA bird species (it's also entirely within Blackwater Callows SPA), these species are mostly wintering waterfowl and would not be significantly disturbed.”

In view of the scale and the nature and extent of the development, together with the statement that the proposed works would only be carried out in summer months, 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.

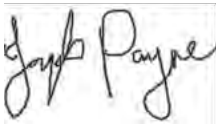
CONCLUSION

Having regard to:

- the particulars received by the Planning Authority on 16th of August 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,
- Schedule 2, Article 6 Part 1 or Part 3 of the Planning and Development Regulations 2001, as amended

It is concluded that the construction of an internal agricultural cow track approx. 300m in length and 4m in width to enable the safe movement of cows within the landholding constitutes 'works' and 'development' as defined in Sections 2 and 3 of the Planning and Development Act. The development does not come within the scope of any of the exemptions for agricultural development provided by Schedule 2, Article 6, Part 1 or Part 3 of the Planning and Development Regulations 2001, as amended.

On this basis it is considered that the proposed development **is development and is not exempted development.**



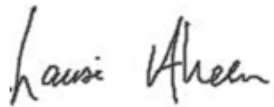
Janet Payne
Executive Planner
10th September 2024

The above report and recommendation is noted.

The said development and works are noted. The construction of the said new internal agricultural farm track on private land is a new access track or 'way' and is not the repair/improvement of an established track or way. Accordingly, it would not fall within Class 13 or any other Class.

Conclusion

Is Development and Is **Not Exempted Development**



Louise Ahern
A/Senior Executive Planner
12/09/2024

D/256/24 – Agricultural Report

Hi Janet,

I have no objection to the proposed roadway development subject to the roadway being constructed in accordance with the Department of Agriculture Specifications, S199 **Minimum Specification for Farm Roadways and Underpasses – March 2024.**

Regards,
Frank.

Frank O'Flynn | Eolai Feidhmiúcháin Sinsearach | **Comhshaol Stiúthóireacht**
Comhairle Contae Chorcaí | Inischarra | Corcaigh | P31 X738 | Éire

Frank O'Flynn | Senior Executive Scientist | **Environment Department**
Cork County Council | Inniscarra Waterworks | Cork | P31 X738 | Ireland



Angela Carrigy

From: michael o brien <michaelgobrien619@gmail.com>
Sent: Thursday 15 August 2024 22:55
To: PlanningInfo
Subject: Fwd: Declaration of exemption
Attachments: IMG_20240815_0001.pdf; IMG_20240815_0002.pdf; IMG_20240815_0003.pdf; IMG_20240815_0004.pdf; IMG_20240815_0005.pdf; IMG_20240815_0006.pdf

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To whom it may concern

I was talking with Eveleen Crowley today who sent me the Declaration Of Exemption forms which are attached . Also included are letters and OS maps from John Anthony, Ag Consultant and Frank O Flynn ,Scientist with CCC supporting my application .

Thanking you

Michael O Brien

Ballinaparka

Kilworth

Co.Cork

P61XV07

086/8293390

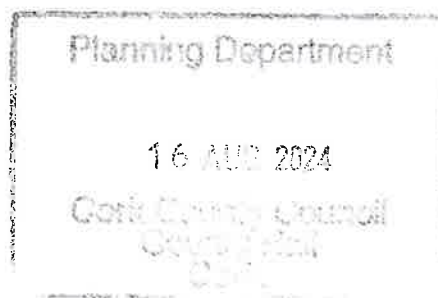
----- Forwarded message -----

From: michael o brien <michaelgobrien619@gmail.com>

Date: Thu, 15 Aug 2024 at 22:42

Subject: Declaration of exemption

To: <eveleen.crowley@corkcoco.ie>



Hi Eveleen,

Thank you for your email and the application forms .

I have attached same to this e mail .

I will send a follow on e mail from John Anthony with the OS maps .

Ill also send the e mail from Frank O Flynn of CCC where it shows in the opinion of an Ecologist ,the proposed works are NOT to the detriment of the SAC.

I can send the €80 fee by cheque or pay by card over the phone .

Let me know if there's anything else you need from me.

Thanking you in advance

Michael O Brien

Ballinaparka

Kilworth



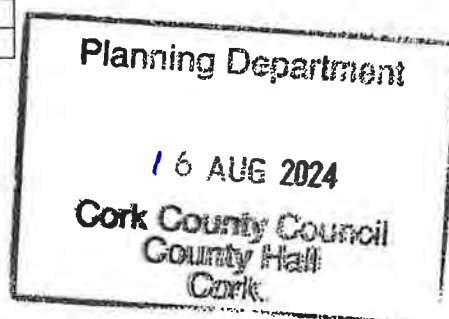
CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

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:**

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FOR OFFICE USE ONLY

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|-----------------------------|-------------|
| Receipt No. | CA C0169041 |
| Cash/Cheque/ Credit Card | CARD |
| Date | 16/8/24 |
| Declaration Ref. No. | D/256/24 |

DATE STAMP HERE

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

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

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

DATA PROTECTION

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

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

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

MICHAEL O' BREEN

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

BALLINAPARKA
KILWORTH, Co. CORK. P61XV07

3. QUESTION/DECLARATION DETAILS:

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

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

I propose to make a farm Roadway on my land, whereby I can access my land through an existing underpass on the R666.

This would eliminate me having to cross cows on the public Road (R666) making it safer for road users, my family and myself.



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): | Roadway Approx 300m x 4m |
| (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: |
| (c) If a change of use of land and/or building(s) is proposed, please state the following: Existing/previous use Proposed use | Grazing Roadway |
| (d) Are you aware of any enforcement proceedings connected to this site? | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please state relevant reference number(s): |

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

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

6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

| |
|---|
| Is this a Protected Structure/Proposed Protected Structure or within the curtilage of a Protected Structure: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority: Yes <input type="checkbox"/> No <input 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"/> |

16 AUG 2024
Cork County Council
County Hall
Cork.

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

* I have documentation attached to back up this answer.

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

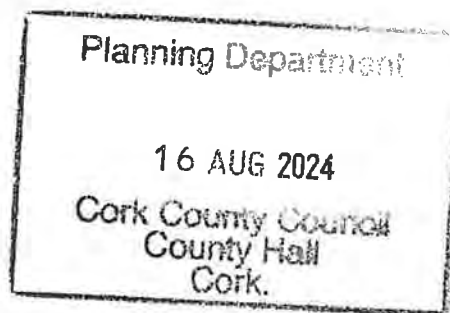
| | |
|-------------------------------|-------------------|
| Signed (By Applicant Only) | Michael G O'Brien |
| Date | 15/8/24 |

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 | Michael G O'Brien |
| Date | 15/8/24 |

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

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

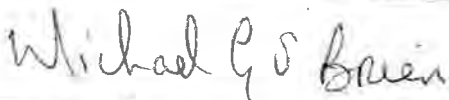

ADVISORY NOTES:

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

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

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

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

| | |
|--|---|
| Signed (Applicant or Agent as appropriate) |  |
| Date |  |

Planning Department
 16 AUG 2024
 Cork County Council
 County Hall
 Cork.

Angela Carrigy

From: michael o brien
Sent: Thursday 15 August 2024 22:56
To: PlanningInfo
Subject: Fwd: Letter to Frank
Attachments: [Untitled]_2024081315142624.pdf

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----- Forwarded message -----

From: michael o brien _ Date: Thu, 15 Aug 2024 at 22:42
Subject: Fwd: Letter to Frank
To: Eveleen Crowley

----- Forwarded message -----

From: John Anthony
Date: Tue, 13 Aug 2024 at 14:33
Subject: Letter to Frank
To: Michael O' Brien

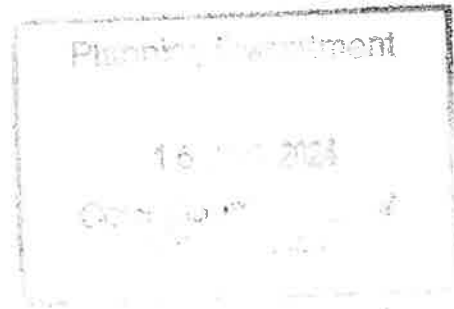
Attached initial scoping letter

John



21st June 2024.

Mr. Frank O' Flynn,
Cork Co. Council,
Inniscarra,
Co. Cork.



Re: **Michael O' Brien**
Ballyinaparka, Kilworth, Co. Cork.

Dear Frank,

Further to our recent telephone conversation please find enclosed 3 maps as follows:

1. Map labelled SAC shows the SAC area hatched red and the two new fields marked X and Y - note there is no physical division between these two fields i.e. it is one field but I have denoted them as X and Y to show which part of the field is in the SAC area (Y) and which area is in the SPA area (X).
2. Map labelled SAC & SPA again this shows the SPA area marked in addition to the SAC area and again the two fields marked X and Y.
3. Map marked New Roadway this shows the proposed new roadway denoted AB in blue linking up his existing two roadways to the east and west of the new field.

In relation to the roadway I wish to draw your attention to the following points:

1. The proposed roadway is 36 metres away from the SAC area (to the north).
2. The roadway is sited at this location to avoid a wetter sloping area on the boundary between the SAC area and SPA area thus reducing risk of runoff from roadway into the drain.
3. I anticipate there will only be 10 metres of existing hedgerow removal where it passes through the two hedgerows marked H1 and H2.

4. It is proposed to replace the 10 metres of hedgerow removed with 20 metres new hedgerow in another location within the holding.
5. It is important that the works are undertaken during the summer due to the risk of flooding impacting on the roadway construction – obviously this would increase the risk of runoff with the associated phosphorous loss.

It had been suggested that planning permission was required for this roadway or an exemption required from Cork Co. Council. In this regard there are a number of good reasons for the roadway to be constructed as quickly as possible for the following reasons:

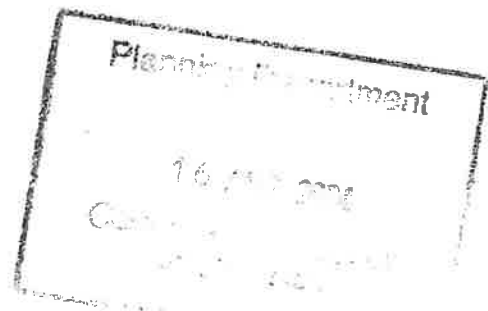
1. Health and safety – if the roadway is not constructed animals will have to be walked on a long route around the farm on the northern side of the main road then the main road crossed in order to link up with the existing roadways on the furthest away part of the farm. This is dangerous from a road traffic perspective particularly given the fact of its proximity to the river there is very often dense fog on the road thus reducing visibility, hence increasing danger.
2. From an animal welfare point of view the less walking means less lameness hence healthier cows.
3. If there is no roadway and cows are allowed to wander across the new land there will be more poaching hence more phosphorous runoff etc.
4. Every effort has been made to stay well away from the SAC area thus being less environmentally impactful.

I believe that Mr. Seamus Hassett of IMPWS met with Michael O' Brien on the farm this week and is happy with the proposals suggested.

I trust that this is in order and if you have any queries please do not hesitate to contact me.

Yours sincerely,

Johnathan Anthony H.N.D. Agric., M.A.C.A.



Angela Carrigy

From: michael o brien
Sent: Thursday 15 August 2024 22:58
To: PlanningInfo
Subject: Fwd: FW: Michael O'Brien Farm Roadway
Attachments: image001.png

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----- Forwarded message -----

From: michael o brien
Date: Thu, 15 Aug 2024 at 22:45
Subject: Fwd: FW: Michael O'Brien Farm Roadway
To: Eveleen Crowley

----- Forwarded message -----

From: John Anthony
Date: Tue, 13 Aug 2024 at 14:15
Subject: FW: Michael O'Brien Farm Roadway
To: Michael O' Brien

fyi

From: Frank O'Flynn (Inniscarra)
Sent: Tuesday, August 13, 2024 9:15 AM
To: John Anthony
Subject: FW: Michael O'Brien Farm Roadway



F

Provided the works are done in the summer, I see no issues. The relatively small works and the distance from the main channel are enough for me to consider there to be no risk of significant impacts to the SAC. Regarding disturbance to SPA bird species (it's also entirely within Blackwater Callows SPA), these species are mostly wintering waterfowl and would not be significantly disturbed.

Due to the sensitive nature of the site, I would recommend the agent/applicant to submit a request for a Section 5 Declaration on the matter which would enable a formal report/decision on the matter. It would be important that they include information on the intended finish of the roadway and again state that works are intended to be carried out within the summer months and highlight that new hedgerow will be planted within landholding.

As you can see they recommend submitting a request for a Section 5 Declaration of exemption.

This declaration would also provide the paperwork necessary for any grant application.

Regards,

Frank.



Frank O'Flynn | Eolaí Feidhmiúcháin Sinscarach | **Comhshaol**

Stiúthóireacht Comhairle Contae Chorcaí | Inischarra | Corcaigh | P31 X738

Eire

Tairseach na gcustaiméirí: www.yourcouncil.ie

Frank O'Flynn | Senior Executive Scientist | **Environment Department**

Cork County Council | Inischarra Waterworks | Cork | P31 X738 | Ireland

SAC



Planning Department
16 AUG 2024
Cork County Council
County Hall
Cork.

NEW ROAD WAY



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

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

Name: MICHAEL G O' BRIEN LTD
Address: BALLINAPARKA
KILWORTH
CO CORK

Herd Nos: D3730167
Townland Code : D37301
Townland Name: BALLYNALACKEN

| Parcel | Digitised | Eligible Hectare | Claimed |
|-------------|-----------|------------------|---------|
| D3730100016 | 1.19 | 1.19 | 1.19 |

Townland Code : D37303
Townland Name: BALLYNAPARKA SOUTH

| Parcel | Digitised | Eligible Hectare | Claimed |
|-------------|-----------|------------------|---------|
| D3730300009 | 7.78 | 7.46 | 7.46 |
| D3730300010 | 7.35 | 7.35 | 7.32 |
| D3730300011 | 0.05 | 0.05 | 0.05 |
| D3730300012 | 1.47 | 1.47 | 1.47 |
| D3730300013 | 0.48 | 0.45 | 0.45 |
| D3730300014 | 1.56 | 1.56 | 1.56 |
| D3730300015 | 1.6 | 1.6 | 1.6 |
| D3730300016 | 1.8 | 0 | 0 |

| Parcel | Excl | Area | Red% | Elig | Type |
|-------------|------|------|------|------|-----------|
| D3730300009 | 0069 | 0.02 | 100 | 0 | Farm Road |
| D3730300009 | 0070 | 0.3 | 100 | 0 | Farm Road |
| D3730300013 | 0056 | 0.03 | 100 | 0 | Farm Road |

Townland Code : D37304
Townland Name: COOLALISHEEN

| Parcel | Digitised | Eligible Hectare | Claimed |
|-------------|-----------|------------------|---------|
| D3730400004 | 0.65 | 0.65 | 0.65 |
| D3730400005 | 2.79 | 2.71 | 2.71 |
| D3730400006 | 1.84 | 1.84 | 1.81 |
| D3730400007 | 5.25 | 5.25 | 5.25 |
| D3730400018 | 1.9 | 1.9 | 1.9 |
| D3730400019 | 0.05 | 0 | 0 |
| D3730400020 | 0.03 | 0.01 | 0.01 |
| D3730400021 | 1.29 | 1.29 | 1.29 |
| D3730400031 | 5.38 | 5.28 | 5.28 |
| D3730400032 | 5.36 | 5.32 | 5.32 |
| D3730400035 | 4.28 | 4.24 | 4.24 |
| D3730400052 | 1.35 | 0 | 0 |

| Parcel | Excl | Area | Red% | Elig | Type |
|-------------|------|------|------|------|------------|
| D3730400005 | 0001 | 0.08 | 100 | 0 | Farm Road |
| D3730400020 | 0012 | 0.03 | 60 | 0.01 | Farm Track |
| D3730400031 | 0016 | 0.18 | 40 | 0.11 | Farm Track |
| D3730400031 | 0017 | 0.03 | 100 | 0 | Farm Road |
| D3730400032 | 0018 | 0.03 | 100 | 0 | Farm Road |
| D3730400035 | 0031 | 0.02 | 100 | 0 | Farm Road |
| D3730400035 | 0032 | 0.01 | 100 | 0 | Farm Road |
| D3730400035 | 0033 | 0.01 | 100 | 0 | Ineligible |

Townland Code : D37309
Townland Name: LEITRIM

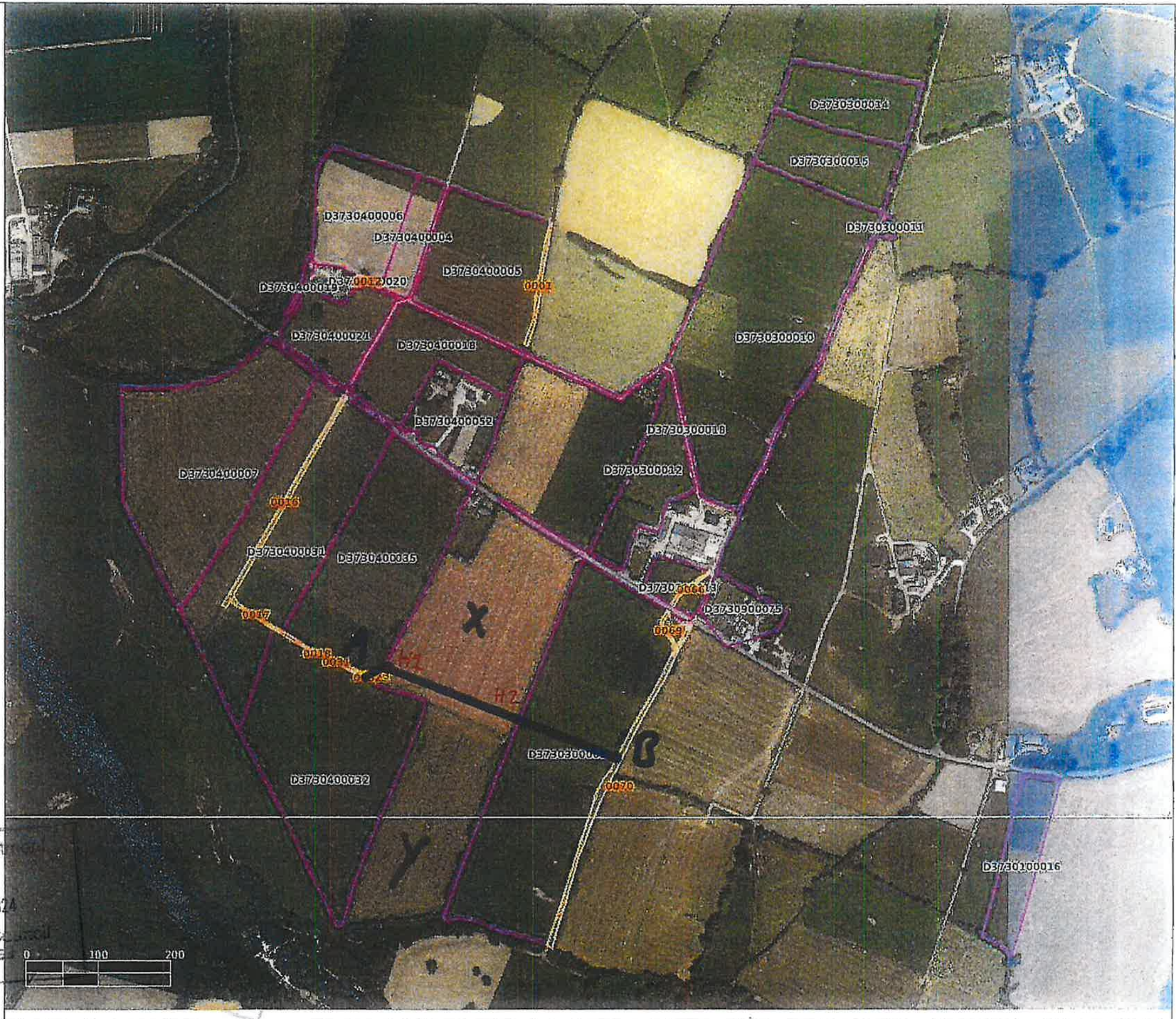
| Parcel | Digitised | Eligible Hectare | Claimed |
|-------------|-----------|------------------|---------|
| D3730900075 | 0.69 | 0 | 0 |

Ortho Used: VSCR_LATEST_ORTHO

All areas displayed above are in hectares

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County Cork
County Cork

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