

# Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Michael Cash  
c/o Edmund Mansworth,  
Berry Hill,  
Cobh  
Co. Cork.

27/03/2025

**Section 5 Request:**

**RE: Coolflugh, Muskerry East.**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on the 25<sup>th</sup> of February 2025, I wish to advise as follows:

The question placed before the Planning Authority was whether the construction of a farm building is development and if so whether it is or is not exempted development.

The Planning Authority's conclusions are listed below:

- a) Works is defined in Section 2(1) of the Planning and Development Act, 2000 (as amended) as "includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure"

The proposal includes an act of construction and therefore falls within the definition of "works". Therefore, the proposal constitutes development within the meaning of the Act.



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- b) Under (Article 6), Schedule 2, Part 3, Class 6 Agricultural Structures of the Planning and Development Regulations 2001 (as amended). "No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof."

The proposed structure is within 100m of several dwellings. No written consent has been provided by the owners of these properties. Therefore, this proposal does not meet the requirements set out in the Act.

Therefore, the Planning Authority has decided that the construction of a single storey extension to the rear of the dwelling **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT**

Is mise le meas,

*Anthony Angelini*

**Anthony Angelini**  
Assistant Staff Officer  
Planning & Integrated Development  
Cork City Council



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<b>PLANNER'S REPORT</b> <b>Ref. R922/25</b>		<b>Cork City Council</b> Culture, Community and Placemaking
<b>Application type</b>	Section 5 Declaration	
<b>Description</b>	<i>Farm building, development class 6. Floor area 100sq.m.</i>	
<b>Location</b>	Coolflugh, Muskerry East	
<b>Applicant</b>	Michael Cash	
<b>Date</b>	27/03/2025	
<b>Recommendation</b>	<i>Is Development and Is Not Exempted Development.</i>	

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

### 1. REQUIREMENTS FOR A SECTION 5 DECLARATION

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.*

The requirements for making a section 5 declaration are set out in the Act.

### 2. THE QUESTION BEFORE THE PLANNING AUTHORITY

In framing the question to the planning authority, the applicant states in Q2 of the application form:

*Farm building, development class 6. Floor area 100sq.m*

The intention of the request is clear, and it is reasonable to consider the question before the planning authority as being:

*Whether the construction of farm building (100sq.m.) is or is not development and is or is not exempted development.*

### 3. SITE DESCRIPTION

The subject site is located on the northern side of the R579 Regional Road and comprises a largely undeveloped parcel of land. There is an existing access into the site from the R579.

### 4. PLANNING HISTORY

#### Planning Applications

No known planning application.

#### Enforcement

Ref: E8818

**Description:** Unauthorised works (alterations to site access, creation/ expansion of hardcored/ hard standing areas, provision of utilities, including electricity supply/ meters/ mini pillars, provision of a well, provision of on-site waste water treatment system including discharge to adjoining water course, provision

of / raising of embankment to the adjoining water course, and all associated works) at a greenfield site immediately east of T12 R3WA, The Junction, Carrigrohane, Co. Cork.

Status: Ongoing/ current.

## **5. LEGISLATIVE PROVISIONS**

### **5.1 The Act**

#### **Section 2(1),**

*"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*

#### **Section 3(1),**

*In this Act, except where the context otherwise requires, "development" means, -*

- a) The carrying out of any works in, on, over or under land or the making of any material change in the use of any land or structures situated on land, or*
- b) Development within the meaning of Part XXI.*

#### **Section 4(1)(a) –**

*The following shall be exempted developments for the purposes of this Act – 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.*

#### **Section 4(2)(a),**

*The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—*

- i) By reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or*
- ii) The development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).*

#### **Section 4(2)(b)**

*Regulations under paragraph (a) may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.*

#### **Section 4(2)(c)**

*Regulations under this subsection may, in particular and without prejudice to the generality of paragraph (a), provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.*

#### **Section 5(1),**

*(See section 1 of this report)*

#### **Section 177U (9) (screening for appropriate assessment)**

*In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.*

## 5.2 The Regulations

### Article 9 (1)(a)

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

- (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (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,
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
- (xi) obstruct any public right of way,
- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,

<b>(Article 6) Schedule 2, Part 3, Class 6 (Agricultural Structures)</b>	
<b>Column 1</b> <i>Description of Development</i>	<b>Column 2</b> <i>Conditions and Limitations</i>
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 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.	<ol style="list-style-type: none"> <li>1. No such structure shall be used for any purpose other than the purpose of agriculture.</li> <li>2. The gross floor space of such 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.</li> <li>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 the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.</li> <li>4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.</li> <li>5. No such structure within 100 metres of any public road shall exceed 8 metres in height.</li> <li>6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner</li> </ol>

	<p>and, as may be appropriate, the occupier or person in charge thereof.</p> <p>7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</p>
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## 6. ASSESSMENT

The purpose of this report is to assess whether or not the matter in question constitutes development and whether it falls within the scope of exempted development. Matters pertaining to the acceptability of the proposal in respect of the proper planning and sustainable development of the area is not a consideration under section 5.

### 6.1 Development

The first issue for consideration is whether or not the matter at hand is 'development'.

*'Development' as defined in the Act (3)(1) comprises two possible chief components: '(a) the carrying out of any works in, on, over or under land or the making of any material change in the use of any land or structures situated on land, or (b) Development within the meaning of Part XXI.'*

In order to ascertain whether or not the proposal is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

*'Works' is defined in section 2(1) of the Act as 'includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.'*

The proposal includes an act of construction and therefore falls within the definition of 'works'. Therefore, the proposal constitutes development within the meaning of the Act.

### CONCLUSION:

- Is development.

### 6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

Section 4(3) of the Act states that exempted development either means development specified in section 4(1) or development which is exempted development having regard to any regulations under section 4(2). I consider that the proposal comes within subsection (2) of section 4, i.e. the Regulations, and not subsection (1).

The exemptions for agricultural structures is set out in Article 6 Schedule 2, Part 3, Class 6 of the *Planning and Development Regulations 2001* (as amended). The proposal is assessed below against the conditions/limitations of Class 6.

#### Condition/ Limitation 1

No such structure shall be used for any purpose other than the purpose of agriculture.

#### Assessment

It is stated that the structure will be used for the keeping of horses and storage of feed.

Condition/ Limitation 2

The gross floor space of such 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.

Assessment

The site does not form part of farmyard complex, and the proposed structure does not exceed 300sq.m.

Condition/ Limitation 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 the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.

Assessment

No details of effluent storage facilities have been provided. This information could be requested by way of further information.

Condition/ Limitation 4

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

Assessment

A land registry map has been submitted with the application which indicates the location of the structure within site. The structure is shown to be in excess of 10m from the public road.

Condition/ Limitation 5

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

Assessment

The proposed structure is less than 8m high.

Condition/ Limitation 6

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

Assessment

The proposed structure is within 100m of several dwellings. No written consent has been provided by owners of these properties. **This condition/ limitation is not met.**

Condition/ Limitation 7

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

Assessment

The roof and external finish of the proposed structure comprises painted metal sheeting.

**CONCLUSION:**

- **Is not exempted.**



### **Other Matters**

This section 5 report has specifically assessed the question asked. It is noted that works have been carried out on site which may have been to facilitate the proposal. These works are subject to an enforcement investigation and were not considered as part of this assessment. Any subsequent section 5 proposal may include additional elements (such as access etc.) and this would be assessed accordingly having regard to the provisions of the Act and Regulations.

## **7. ENVIRONMENTAL ASSESSMENT**

### **7.1 Screening for Environmental Impact Assessment**

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) 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 an environmental impact statement is not required to be submitted.

### **7.2 Screening for Appropriate Assessment**

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of the European sites referred to above. Accordingly, it is considered that appropriate assessment is not required.

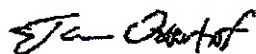
## **8. RECOMMENDATION**

In view of the above and having regard to –

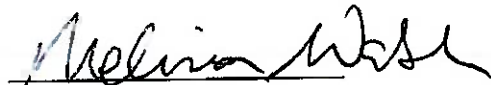
- Section 2(1), 3(1) and 4 of the Planning and Development Act 2000 (as amended), and
- Article 6, Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001 (as amended)

The Planning Authority considers that –

*the construction of farm building (100sq.m.) at Coolflugh, Muskerry East* **IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.**



Jan Oosterhof  
A/ Executive Planner  
27/03/2025



Melissa Walsh  
Senior Executive Planner  
27/03/2025



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The Development Management Section,  
Community, Culture and Placemaking Directorate,  
Cork City Council,  
City Hall,  
Anglesea Street,  
Cork.

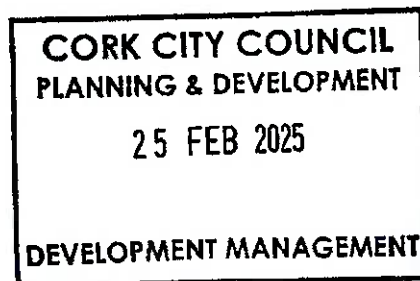
21 February 2025

Dear Sirs,

Ref: Michael Cash, Coolfugh, Muskery East.

Please find enclosed:

- Section 5 Application Form
- O.S. Map
- Folio CK169786F
- Plans of proposed agricultural shed
- Elevations of proposed agricultural shed
- Fee, Postal Order for €80



Yours faithfully,

  
Edmund Mansworth

Director: Edmund Mansworth MSc. (CPM), BSc. (Hons) (Const. Eng.) BEng. (Fire Eng.) HNC (Civil Eng.)  
C. Build E MCABE MCIOB MIEI  
VAT No. IE 36035640H

CLASS 6.

**COMHAIRLE CATHRACH CHORCAÍ**  
**CORK CITY COUNCIL**

Community, Culture & Placemaking Directorate,  
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail [planning@corkcity.ie](mailto:planning@corkcity.ie)

Fón/Tel: 021-4924029

Líonra/Web: [www.corkcity.ie](http://www.corkcity.ie)

**SECTION 5 DECLARATION APPLICATION FORM**  
under Section 5 of the Planning & Development Acts 2000 (as amended)

**1. NAME OF PERSON MAKING THE REQUEST**

MICHAEL CASH.

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

COOLFUCH  
MUSKERY EAST.

**3. QUESTION/ DECLARATION DETAILS**

**PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:**

Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

*Note: only works listed and described under this section will be assessed under the section 5 declaration.*

FARM BUILDING, DEVELOPMENT CLASS 6  
FLOOR AREA 100m<sup>2</sup>.

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**  
(Use additional sheets if required).

AREA: 100m<sup>2</sup>  
MAX HEIGHT: 5.2m.

**CORK CITY COUNCIL**  
**PLANNING & DEVELOPMENT**  
25 FEB 2025  
**DEVELOPMENT MANAGEMENT**

4. Are you aware of any enforcement proceedings connected to this site?

If so please supply details:

No

5. Is this a Protected Structure or within the curtilage of a Protected Structure? ☐ NO

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? ☐

6. Was there previous relevant planning application/s on this site? ☐ No.

If so please supply details:

#### 7. 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 meters (sq. M)

(a) Floor area of existing/proposed structure/s	100 m <sup>2</sup>
(b) If a domestic extension, 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. (sq m) AGRICULTURAL LAND
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle)  FARM LAND	Proposed/existing use (please circle)  KEEPING OF HORSES & STORAGE OF FEED.

#### 7. LEGAL INTEREST

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 in question		
If you are not the legal owner, please state the name of the owner if available		

8. I / We confirm that the information contained in the application is true and accurate:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

21/2/25

# Land Registry Compliant Map



Tailte  
Éireann

**CENTRE**  
**COORDINATES:**

ITM 558268.573992

**PUBLISHED:**

04/02/2025

**ORDER NO.:**

50446418\_1

**MAP SERIES:**

1:2,500

**MAP SHEETS:**

6335-D

**COMPILED AND PUBLISHED BY:**

Tailte Éireann

Phoenix Park,

Dublin 8,

Ireland.

D08F6E4

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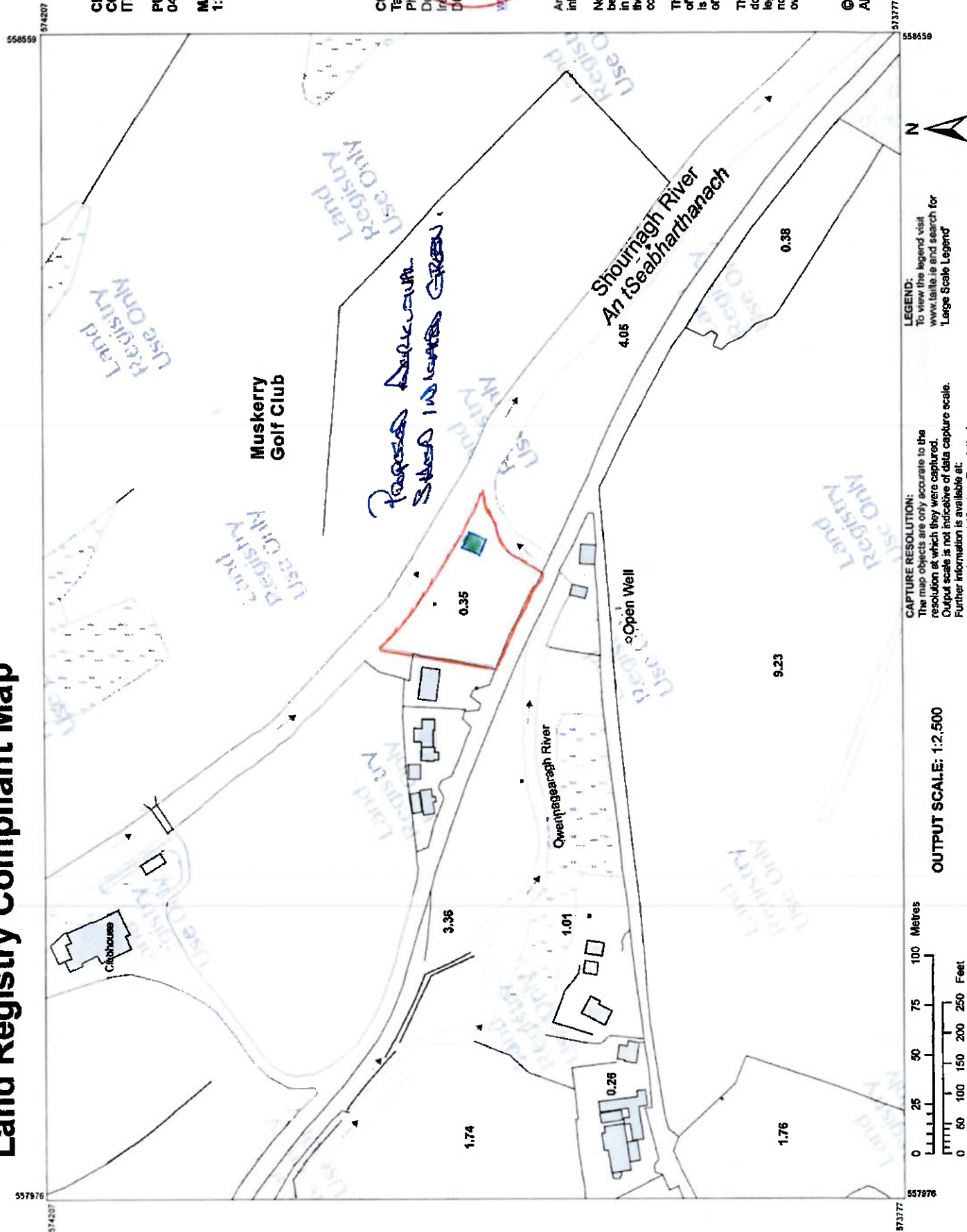
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nor does it show  
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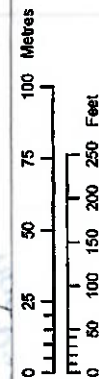
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Output scale is not indicative of data capture scale.  
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[www.tailte.ie](http://www.tailte.ie) search 'Capture Resolution'

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



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

558450 mE, 574130 mN



Claudia Luchini  
Registered  
Surveyor  
Tailte Éireann

Folio: CK169786F

This map should be read in conjunction with the folio.

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(centre-line of parcel(s) edged)

Freehold

Leasehold

SubLeasehold

Burdens (may not all be represented on map)

Right of Way / Wayleave

Turbary

Pipeline

Well

Pump

Septic Tank

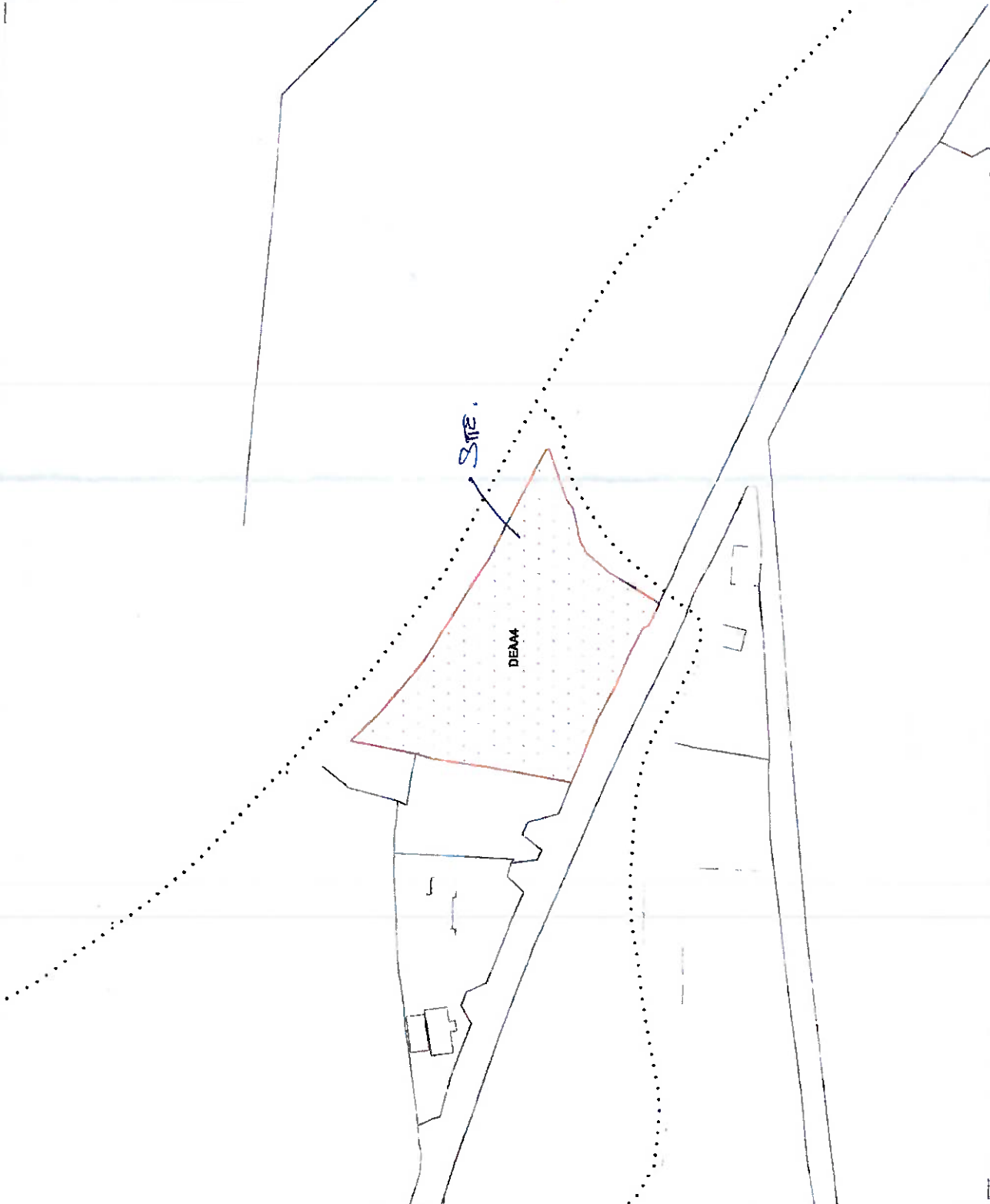
Soak Pit

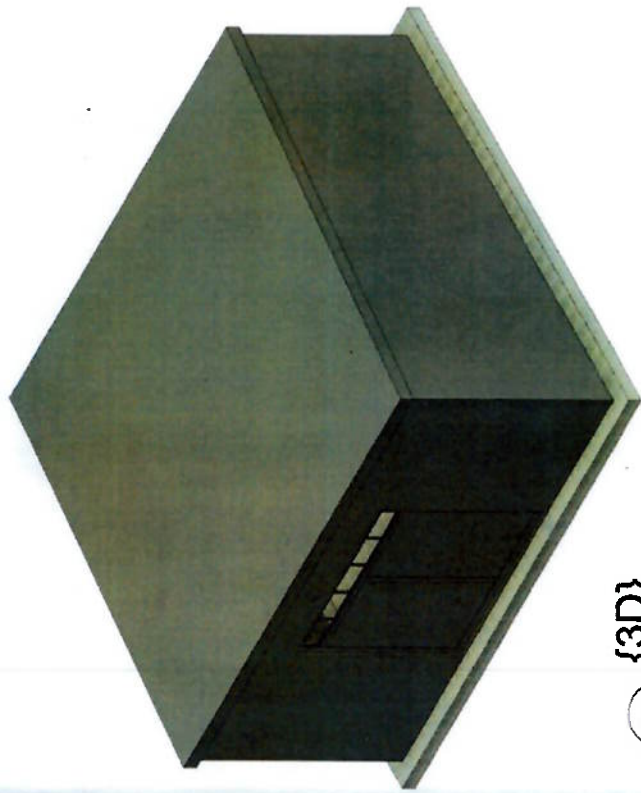
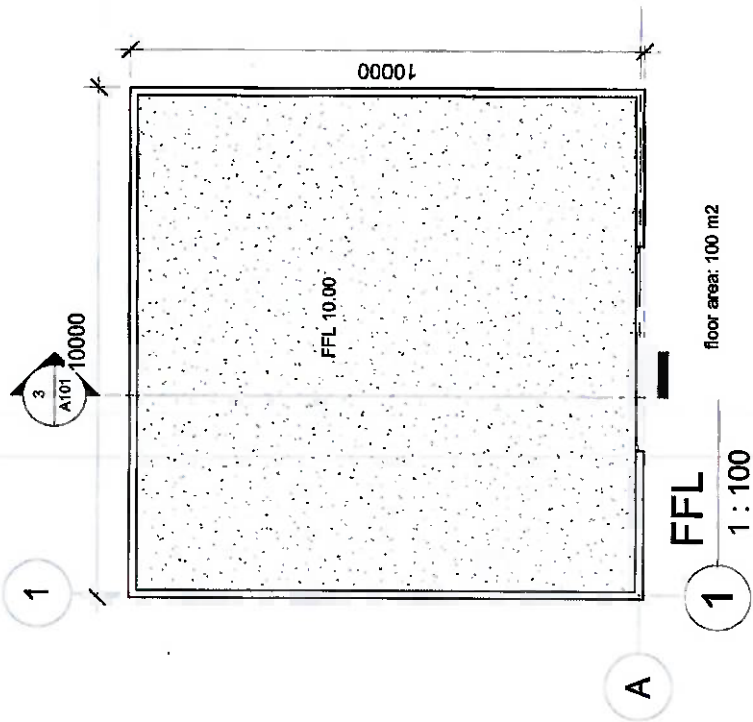


A full list of burdens and their symbology can be found at:  
[www.landdirect.ie](http://www.landdirect.ie)

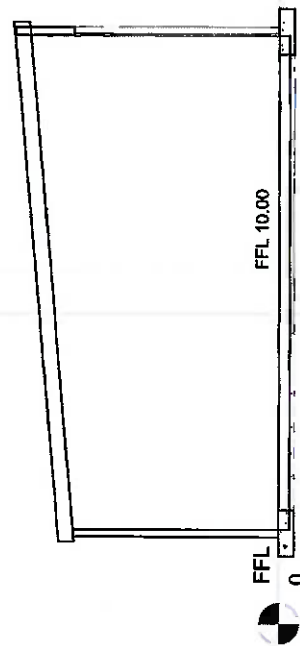
Tailte Éireann Registration operates a non-conclusive boundary system.

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Note  
Shed construction: Metal Sheeting, Bottle Green, on Steel Frame  
200 mm concrete floor  
'Up and Over' roller doors



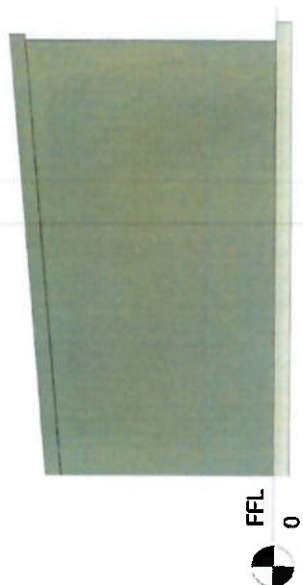
<b>CLIENT</b> Michael Cash	<b>DRAWING TITLE</b> Proposed Plans, Section and 3D			
<b>JOB TITLE</b> Agricultural Shed	<b>Project number</b> 25/079	<b>Date</b> Feb. 2025	<b>Drawn by</b> Ed Mansworth	<b>Checked by</b> Checker
<b>Scale</b> 1 : 100	<b>Scale</b> 1 : 100			

Figured dimensions to be taken in preference before work proceeds.  
Designer to be informed of any discrepancies before commencement of work.  
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IE IN DOUBT, ASK!

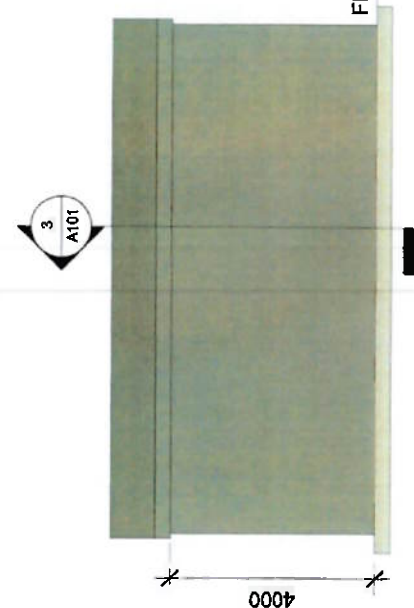
**cab**  
ALPLAN PROJECT MANAGEMENT LTD.  
Edmund Mansworth  
Berry Hill, Cobh, Co. Cork  
Mob: 087 245 1065  
Email: edmundmansworth@gmail.com

No.	Description	Date
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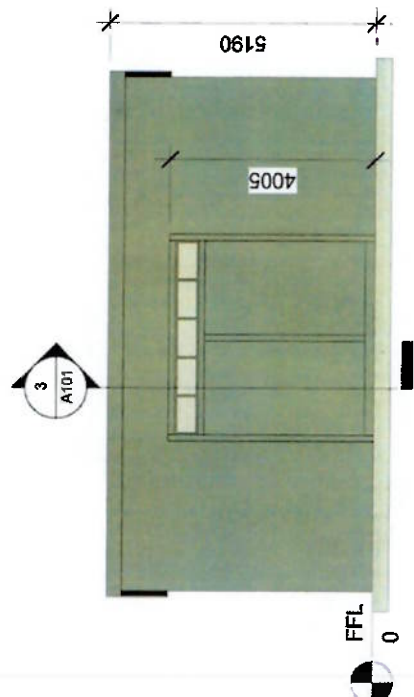




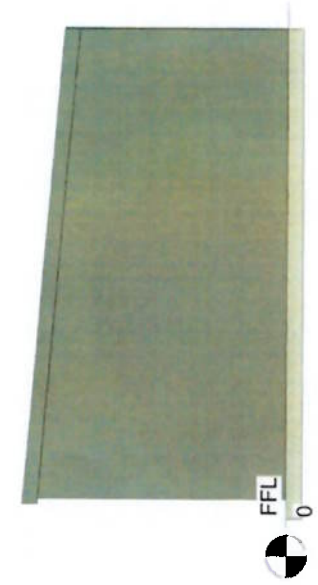
1 east  
1 : 100





3 South  
1 : 100



2 North 1  
1 : 100



4 west 1  
1 : 100

				<b>CLIENT</b> Michael Cash		<b>DRAWING TITLE</b> Elevations		
<b>ALPLAN PROJECT MANAGEMENT LTD.</b> Edmund Mansworth Berry Hill, Cobh, Co. Cork Mob: 087 245 1065 Email: edmundmansworth@gmail.com				<b>FIGURED DIMENSIONS TO BE TAKEN IN PREFERENCE</b> Designer to be informed of any discrepancies before work proceeds. Contractor to check all dimensions on site before commencement of work. Large scale drawings take preference over smaller drawings. This drawing is copyright. <b>IF IN DOUBT, ASK!</b>		Project number 25/079		<b>A102</b>
						Date Feb. 2025		
						Drawn by Ed Mansworth		
						Checked by		
				<b>JOB TITLE</b>  Agricultural Shed		Scale 1 : 100		
No.		Description		Date				