

# Comhairle Contae Chorcaí Cork County Council

An Rannóg Pleanála,  
Halla an Chontae,  
Bóthar Charraig Ruacháin,  
Corcaigh T12 R2NC  
Fón: (021) 4276891 Faics: (021) 4276321  
Suíomh Gréasáin: [www.corkcoco.ie](http://www.corkcoco.ie)  
Planning Department,



County Hall,

Carrigrohane Road, Cork T12 R2NC

Tel: (021) 4276891 Fax: (021) 4276321

Florence McCarthy,  
3 Janeville,  
Blackrock Road,  
Cork.  
T12 C3YN

11<sup>th</sup> April, 2023

REF: D/211/23  
LOCATION: Ballymacooley More, Mogeely, Co. Cork.

**RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE  
PLANNING & DEVELOPMENT ACT 2000**

Dear Sir,

On the basis of the plans and information submitted by you on the 17<sup>th</sup> February & 15<sup>th</sup> March, 2023 the Planning Authority having considered whether the construction of a shed to store machinery and timber at **Ballymacooley More, Mogeely, Co. Cork** is or is not development and is or is not exempted development has declared that **it is exempted development**.

**Reason for Decision**

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

- Sections 2(1), 3(1) and 4(4) of the Planning and Development Act (2000, as amended)
- Articles 3, 6 and 9 of the Planning and Development Regulations (2001, as amended)
- Class 9, Part 3, Schedule 2, of the Planning and Development Regulations (2001, as amended)

**And the Planning Authority hereby decides** that the construction of a shed to store machinery and timber at Ballymacooley More, Mogeely, Co. Cork, is **development** and 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,



---

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

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

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

Ref D211-23 – Proposed timber/machinery shed. Florence McCarthy

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Proposal/Context

Applicant has queried whether or not the construction of a shed for the storage of machinery/timber is/is not exempted development

Planning History



There is no planning history in respect of the subject development. The site is located within a wider forestry plantation. There is an access to the plantation now in place to the North of the site

## Statutory Provisions

I consider the following statutory provisions relevant to this referral case:  
Planning and Development Act, 2000

**Section 3 (1)** states:-

“In this Act, “development” means, except where the context otherwise requires, the carrying out of works on, in over or under land, or the making of any material change of use of any structures or other land.”

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

Section 4 (2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations, 2001.

### Planning and Development Regulations, 2001

Article 6(1) of the Regulations states as follows:- *“(a) Subject to article 9, development consisting of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1*

Article 9 (1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development.

**Class 9 of Schedule 3, Part 1, P&D Regulations, 2001 is relevant**

**CLASS 9**

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.



	<ol style="list-style-type: none"><li>2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.</li><li>3. No such structure shall be situated within 10 metres of any public road.</li><li>4. No such structure within 100 metres of any public road shall exceed 8 metres in height.</li><li>5. No such structure shall be situated 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.</li><li>6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</li></ol>
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## Assessment

In the first instance, consideration needs to be given as to whether or not the works proposed constitute “development” for the purposes of the Act. Section 3 defines “development” as the carrying out of “works” on in over or under land or the “making of any material change of use in the structure or other land”

*“Works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal*”. The construction of a shed/ store meets the definition of “development” as set out under the Act.

Class 9 allows the construction of up to 300sqm shed type structure of the type proposed provided same is used for the purpose of agriculture or forestry. A C. 200sqm building is being proposed. The use of the structure has not been specified though the forested context would suggest it is for purposes related to same. Applicant may need to clarify this issue as there does not appear to be an associated farm. Otherwise the structure would appear to meet the main tenets of class 9 (i.e it is >10m from a public road and >100m from any dwelling)

### **Article 9 - Restriction on Exemptions.**

Article 9(1) states that development to which Article 6 relates shall not be exempted for the purposes of the Act. Having reviewed this section, none of the caveats would appear to apply to the subject proposal

The conclusions in relation to AA and EIA above refer in the context of Article 9(1)(a) (viiB) and 9(1)(c) are dealt with separately below

### **AA/ EIA**

Section 4(4) of the Act essentially de-exempts any development which attracts a requirement for Environmental Impact Assessment (EIA) or Appropriate Assessment (AA).

In relation to EIA, part 2 of schedule 5 lists development which may require EIA for the purposes of part 10 of Part 10 of the Planning and Development Act. Having considered that detail I am satisfied the proposal does not trigger any requirement for mandatory or sub-threshold EIA

As regards Appropriate Assessment, I am satisfied that significant impacts on Natura 2000 sites can be ruled out

## **Conclusion**

In considering this referral, and having had regard particularly to -

(a) Section 2(1), 3(1), 4(4), of the Planning and Development Act, 2000, as amended,

(b) Articles 3, 6 and 9 and Class 9 , Part 3, Schedule 2 of the Planning and Development Regulations, 2001, as amended,

The Planning Authority has concluded that:

*Additional detail is required to confirm the purpose of the proposed structure and to confirm that is either related to agriculture or forestry only*

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Enda Quinn  
Executive Planner  
13/3/ 2023

## **Additional Report- 11/4/2023**

Following request for additional information, the applicant has written in to confirm that the proposed shed is for forestry related uses only. On this basis I am satisfied that the proposal meets the main requirement of **Class 9 of Schedule 3,Part 1, P&D Regulations, 2001**

### **Conclusion**

In considering this referral, and having had regard particularly to -

(a) Section 2(1), 3(1), 4(4), of the Planning and Development Act, 2000, as amended,

(b) Articles 3, 6 and 9 and Class 9 , Part 3, Schedule 2 of the Planning and Development Regulations, 2001, as amended,

The Planning Authority has concluded that the proposed development constitutes "development" as defined under the Act but constitutes "exempted development" as per Class 9 of Schedule 3,Part 1, P&D Regulations, 2001

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Enda Quinn  
Executive Planner  
11/4/2023



3 Janeville,  
Blackrock Road,  
Cork T12 C3YN

15<sup>th</sup> March 2023

ATTN; Tracy O Callaghan SO,  
The Planning Department,  
Cork County Council,  
Floor 2, County Hall,  
Carrigrohane Road,  
Cork, T12 R2NC

**Re: Application for Section 5 Declaration for Exemption for Shed at Ballymacooly More, Mogeely,  
Co. Cork**

Dear Tracy,

Further to your letter of 13<sup>th</sup> March 2023, I confirm that the purpose of the proposed structure is  
for forestry use only.

I trust that this is to your satisfaction. Please contact me if you need any further information. My  
mobile number is 086 8110303 and my email is florpmccarthy@icloud.com

Yours sincerely

  
Flor McCarthy

B. Agr Sc

Florence McCarthy,  
3 Janeville,  
Blackrock Road,  
Cork.  
T12 C3YN.

13<sup>th</sup> March 2023

Our Ref.: D/211/23

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

***Whether the the construction of a shed for the storage of machinery/timber at Ballymacooley More, Mogeely, 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.

In respect of the proposal submitted and having regard to:

- (a) Section 2(1), 3(1), 4(4), of the Planning and Development Act, 2000, as amended,
- (b) Articles 3, 6 and 9 and Class 9, Part 3, Schedule 2 of the Planning and Development Regulations, 2001, as amended,

The Planning Authority has concluded that:

*Additional detail is required to confirm the purpose of the proposed structure and to confirm that is either related to agriculture or forestry only.*

Yours faithfully,

---

**TRACY O' CALLAGHAN,  
SO PLANNING DEPARTMENT.**

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

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

Ref D211-23 – Proposed timber/machinery shed. Florence McCarthy

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Proposal/Context

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**Class 9 of Schedule 3, Part 1, P&D Regulations, 2001 is relevant**

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1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.



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## Assessment

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Section 4(4) of the Act essentially de-exempts any development which attracts a requirement for Environmental Impact Assessment (EIA) or Appropriate Assessment (AA).

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## **Conclusion**

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*Additional detail is required to confirm the purpose of the proposed structure and to confirm that is either related to agriculture or forestry only*

---

Enda Quinn  
Executive Planner  
13/3/ 2023

3 Janeville,  
Blackrock Road,  
Cork T12 C3YN

16<sup>th</sup> February 2023

The Planning Department,  
Cork County Council,  
Floor 2, County Hall,  
Carrigrohane Road,  
Cork, T12 R2NC

Re: Application for Section 5 Declaration for Exemption for Shed at Ballymacooly More, Mogeely, Co. Cork

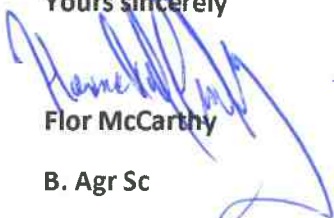
Dear Sir/Madam,

Please find the following information in relation to the above mentioned application;

- 4 x Copies of Application Form
- 1 x Copy of Contact Details
- 4 x Copies 6" O.S Maps (applicants site shown in Blue)
- 4 x Copies 25" O.S Maps (applicants site shown in Red)
- 4 x Copies Site Layout plans (location of proposed shed shown in Yellow)
- 4 x 4 Copies Scaled Drawings of Development – Elevation 1, Elevation 2, Sections, Ground Floor/Roof
- 80 euro Application Fee

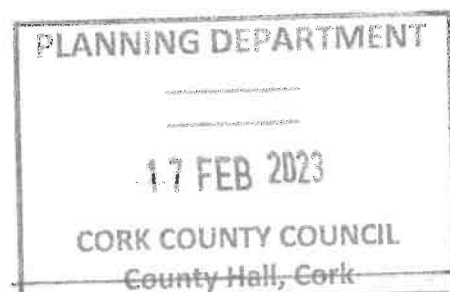
I trust that this is to your satisfaction. Please contact me if you need any further information. My mobile number is 086 8110303 and my email is florpmccarthy@icloud.com

Yours sincerely



Flor McCarthy

B. Agr Sc







## 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:

✓
✓
✓
✓
✓
✓
✓

### FOR OFFICE USE ONLY

Receipt No.	P20002221
Cash/Cheque/ Credit Card	cheque
Date	17/2/23
Declaration Ref. No.	D/21/23

DATE STAMP HERE

Planning Department

17 FEB 2023

Cork County Council  
County Hall  
Cork

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)**

FLORENCE PATRICK MC CARTHY

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

BALLYMACCOOLEY MORE  
MOGEELY  
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

I WISH TO ERECT A SHED AT THE ABOVE ADDRESS TO STORE MACHINERY AND TIMBER. I WISH TO CONFIRM THAT THE

SHED PROPOSED TO BE CONSTRUCTED IS CLASSIFIED AS EXEMPT DEVELOPMENT

THE SHED IS LESS THAN 200 SQ METRES IN AREA

THE SHED IS MORE THAN 10 METRES FROM THE PUBLIC ROAD

Planning Department

17 FEB 2023

Cork County Council  
County Hall  
Cork.

**4. APPLICATION DETAILS:**

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square metres (m<sup>2</sup>)

(a) Floor area of existing/proposed structure(s):	193.03 SQ METRES
(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 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?	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"/>

Planning Department  
17 FEB 2023  
Cork County Council  
County Hall

**7. APPROPRIATE ASSESSMENT:**

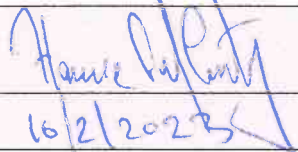
Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes  No

**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	16/2/2023

**GDPR Special Categories of data / Sensitive Personal data - Explicit Consent**

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, **explicit consent** to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:

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

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		Planning Department
Date	16/2/2023	17 FEB 2023

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:**

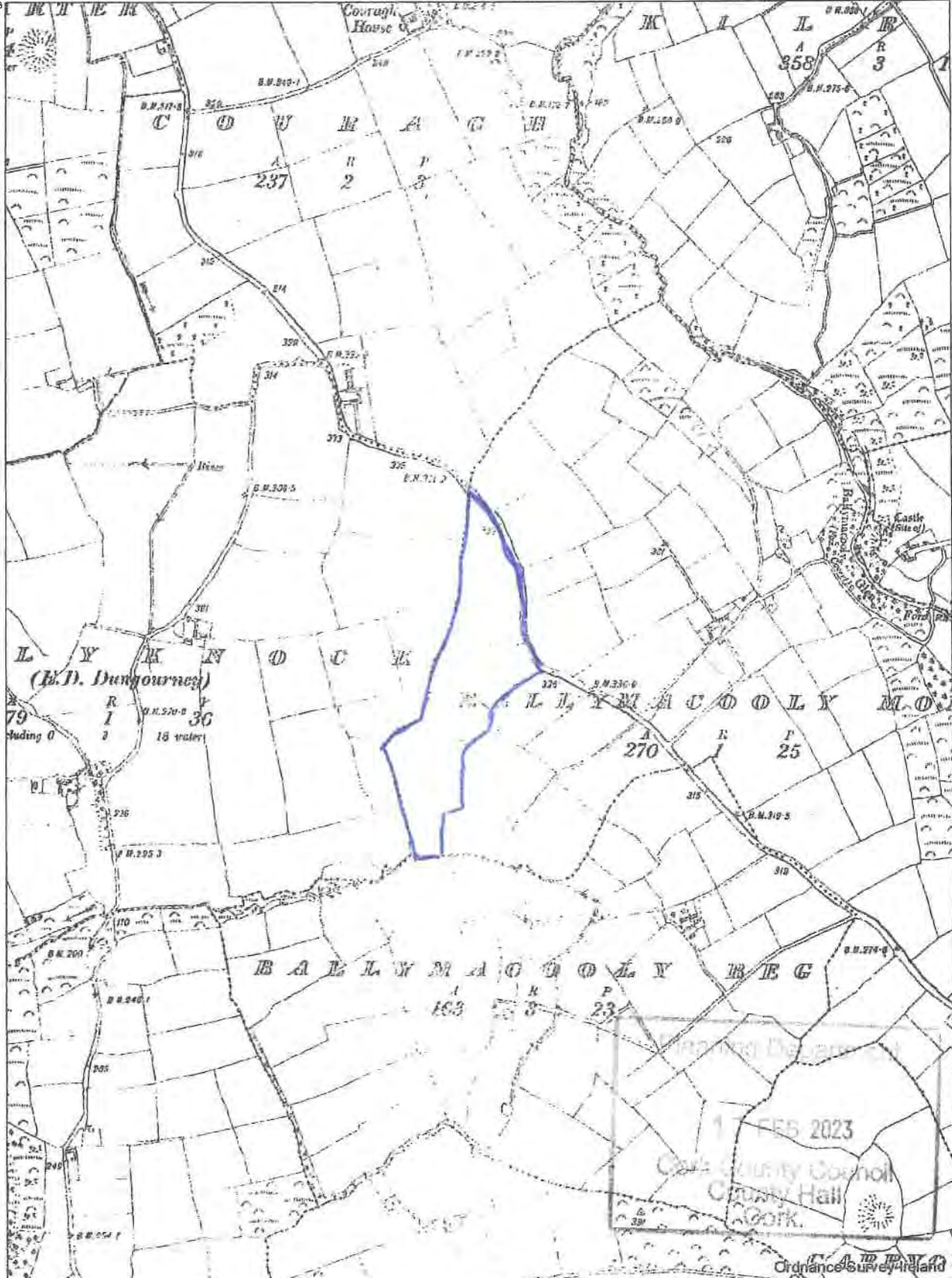
Signed (Applicant or Agent as appropriate)	
Date	16/2/2023

Planning Department

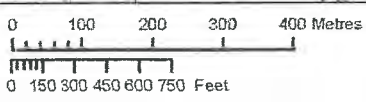
17 FEB 2023

Cork County Council  
County Hall  
Cork.

# Site Location Map



Applicant Site is Blue



OUTPUT SCALE: 1:10,560



**CENTRE COORDINATES:**  
ITM 594450,577503

**PUBLISHED:** 13/12/2022  
**MAP SERIES:** 6 Inch Raster  
**ORDER NO.:** 50307787\_1  
**MAP SHEETS:** CK066

**CAPTURE RESOLUTION:**  
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at <http://www.osi.ie>; search 'Capture Resolution'.



**COMPILED AND PUBLISHED BY:** Ordnance Survey Ireland, Phoenix Park, Dublin 8, Ireland.  
All rights reserved. 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 owners.

Ordnance Survey maps never show legal property boundaries, nor do they show ownership of physical features.

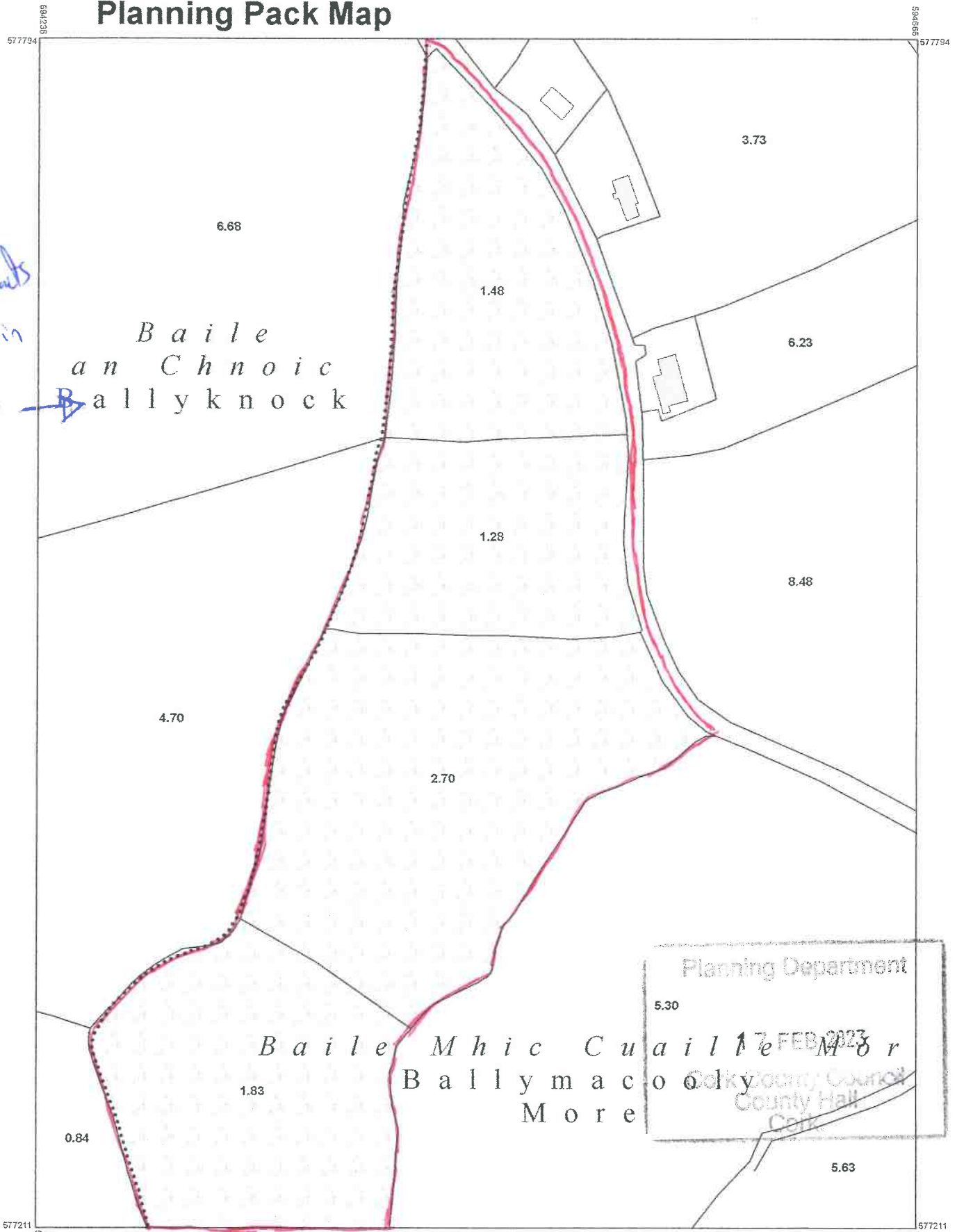
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# Planning Pack Map

Applicants site in Red. →



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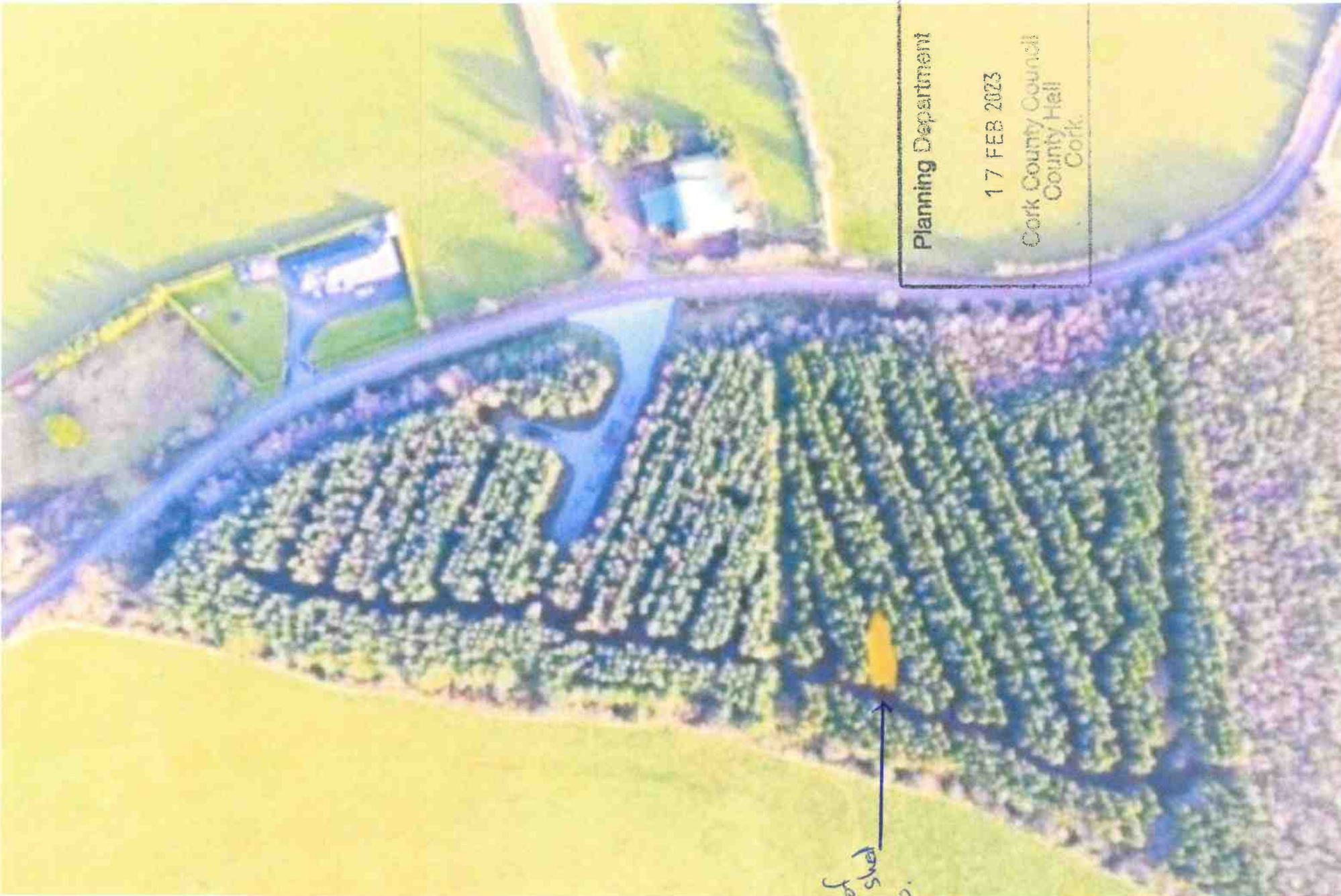
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location of  
proposed shed  
yellow.

Planning Department  
17 FEB 2023  
Cork County Council  
County Hall  
Cork.









