

Comhairle Contae Chorcaí Cork County Council

Kenneth Whyte,
c/o Richard Roycroft,
Ceres Consulting,
Barleyfield,
Kilbrittain,
Co. Cork.

Pleanáil agus Forbairt,
Halla an Chontae,
Bóthar Charraig Ruacháin,
Corcaigh T12 R2NC.
Fón: (021) 4276891 • Faics: (021) 4276321
R-phost: planninginfo@corkcoco.ie
Suíomh Gréasáin: www.corkcoco.ie
Planning & Development,
County Hall,
Carrigrohane Road, Cork T12 R2NC.
Tel (021) 4276891 • Fax (021) 4276321
Email: planninginfo@corkcoco.ie
Web: www.corkcoco.ie



29th June 2023

REF: D/242/23
LOCATION: Mylane, Ovens, Co. Cork

**RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 - 2010.**

Dear Sir,

On the basis of the information submitted by you on 12th May and 14th June 2023 the Planning Authority, having considered the question whether or not the development of an all-weather surface equine outdoor exercise area at **Mylane, Ovens, Co. Cork** is or is not development and is or is not exempted development has declared that it **is development and is exempted development**.

Reason for Decision

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

- Sections 2 and 3 of the Planning and Development Act, 2000 (as amended)
- Class 10 of Part 3 (Rural) Schedule 2 of the Planning and Development Regulations 2001 (as amended) and
- The particulars received by the Planning Authority on 12th May and 14th June 2023

And Whereas Cork County Council has concluded that –

The development of an all-weather surface equine outdoor exercise area at **Mylane, Ovens, Co. Cork** constitutes **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,



**PIO TREACY,
ADMINISTRATIVE OFFICER,
PLANNING DEPARTMENT.**

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

D/242/23 – Section 5 Declaration

A Section 5 declaration is sought by Kenneth Whyte querying whether the development of a sand circle gallop is development and exempt development.

The following further information was requested on the 6th June 2023

You are advised that the information submitted does not demonstrate that the proposal is exempt under Section 5 of the Planning and Development Act 2000 as amended. The most relevant exemption for this development is Class 10 of Part 3 (Rural) Schedule 2 of the Planning and Development Regulations 2001 as amended. You are therefore requested to confirm details in relation to the conditions/limitations of the planning exemption as follows:

- 1.No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*
- 2. No such area shall be used for the staging of public events.*

Response

A response was received on the 14th June 2023 stating the following:

- The proposed gallop will not be used for any other purpose other than the exercising and training of horses and ponies.
- The proposed gallop will not be used for public events.

Assessment

The response to the further information request has addressed the compliance with the conditions and limitations of Class 10, of Part 3 (Rural) Schedule 2 of the Planning and Development Regulations 2001 as amended.

Conclusion

WHEREAS a question has arisen as to

Whether or not the development of a sand circle gallop is development and is or is not exempted development:

AND WHEREAS Cork County Council, in considering this referral, had regard particularly to –

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended
- (b) Class 10 of Part 3 (Rural) Schedule 2 of the Planning and Development Regulations 2001 as amended

AND WHEREAS Cork County Council has concluded that –

The development of a sand gallop is deemed development and exempt development as the works comply with the conditions and limitations of Class 10 of Part 3 (Rural) Schedule 2 of the Planning and Development Regulations 2001 as amended.

Geal Dunne

Executive Planner

29.06.2023

Mylane
Ovens
Co. Cork

14th June 2023

Tracy O'Callaghan
Planning & Development
County Hall
Carrigrohane
Cork
T12 R2NC

Re: **D/242/23 Planning exemption application on behalf of Kenneth Whyte.**

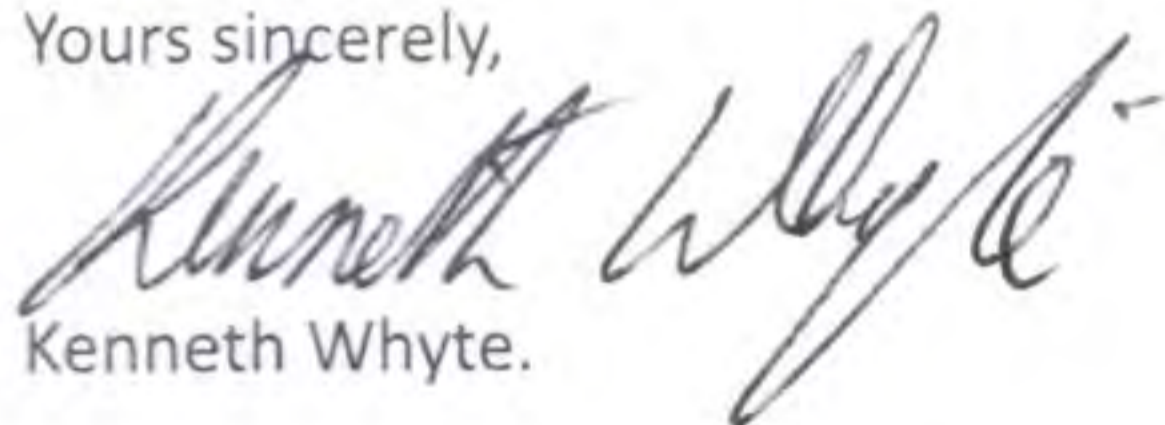
Dear Tracy,

Further to your letter dated 6th June in relation to the above planning exemption application please note the following:

1. I confirm that the proposed all-weather surface equine outdoor exercise arena will not be used for any purpose other than the exercising or training of horses or ponies.
2. I confirm that the proposed all-weather surface equine outdoor exercise arena will not be used for the staging of public events.

If you have any further queries, please do not hesitate to contact me.

Yours sincerely,


Kenneth Whyte.

Comhairle Contae Chorcaí Cork County Council

Kenneth Whyte,
c/o Richard Roycroft,
Ceres Consulting,
Barleyfield,
Kilbrittain,
Co. Cork.

6th June, 2023

Our Ref.: D/242/23

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


Whether the development of the construction of an all-weather surface equine outdoor exercise area at Mylane, Ovens is development and is or is not exempt development.

Dear Sir,

I refer to your application for a Declaration of Exemption in relation to the above. You are advised that the information submitted does not demonstrate that the proposal is exempt under Section 5 of the Planning and Development Act 2000 as amended. The most relevant exemption for this development is Class 10 of Part 3 (Rural) Schedule 2 of the Planning and Development Regulations 2001 as amended. You are therefore requested to confirm details in relation to the conditions/limitations of the planning exemption as follows:

1. No such structure shall be used for any purpose other than the exercising or training of horses or ponies.
2. No such area shall be used for the staging of public events.

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>

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Email: planninginfo@corkcoco.ie
Web: www.corkcoco.ie



D/242/23 – Section 5 Declaration

A Section 5 declaration is sought by Kenneth Whyte querying whether the development of the construction of an all-weather surface equine outdoor exercise area at Mylane, Ovens is development and is or is not exempt development.

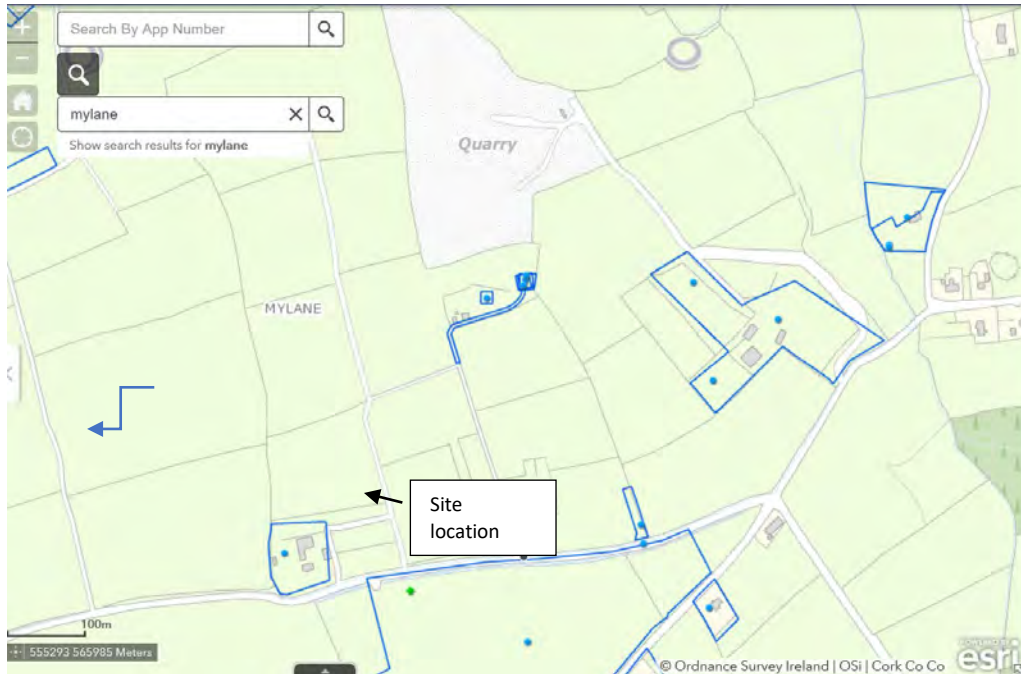


Plate 1: Subject Site Location

Question subject of the Section 5

On the basis of the information submitted the question to be addressed under this request is as follows:

“Whether or not the development of an all-weather surface equine outdoor exercise area is development and is exempt development.

Recent Planning History

04/3085 Permission granted to Ken White for a Dormer dwellinghouse, stables, outbuildings and proprietary treatment plant

1. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000, as amended

Section 2(1) states as follows:-

“In this Act, except where the context otherwise requires – ‘development’ has the meaning assigned to it by Section 3 ...”

Section 3 (1) states as follows:-

“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 in the use of any structures or other land.”

Planning and Development Regulations, 2001 as amended

Article 6(1) of the Planning & Development Regulations, 2001 as amended states as follows:-

“Subject to article 9, development 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 Planning & Development Regulations, 2001 as amended, provides a number of scenarios whereby development to which article 6 relates shall not be exempted development for the purposes of the Act.

Class 10 of Part 3 (Rural) Schedule 2 of the Planning and Development Regulations 2001 as amended

The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all weather surface.

Conditions and Limitations

- 1.No such structure shall be used for any purpose other than the exercising or training of horses or ponies.
2. No such area shall be used for the staging of public events.
3. No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.
4. The height of any such structure shall not exceed 2 metres.

Assessment

The development of an all all-weather surface equine outdoor exercise arena is considered ‘development’ in accordance with Section 3 (1) of the Planning and Development Act, 2000 as it will involve the alteration of the land which will materially change the use of the land.

I have reviewed Class 10, of Part 3, Schedule 2 of the Planning and Development Regulations 2001 as amended in respect of the proposed development.

The proposed development comprises an outdoor exercise arena in an agricultural field. The arena is to be 42m long and 21m wide, a total of 882sqm. The fence around the proposed exercise arena is to be no greater than 2m high.

The exercise arena is to be located c102m north of the L6275-0. The accessway serving the proposed arena is existing, serving the applicants dwelling, farm buildings and agricultural lands. No details have been submitted in relation to the conditions and limitations 1 and 2 of Class 10 of Part 3, Rural, Schedule 2 of the Planning and Development Regulations 2001 as amended in relation to the use of the exercise arena and that it shall not be used for the staging of public events, this information is necessary in order to confirm if the proposal meets the requirement of the exemption or not.

Conclusion

A deferral is recommended for the following:

You are advised that the information submitted does not demonstrate that the proposal is exempt under Section 5 of the Planning and Development Act 2000 as amended. The most relevant exemption for this development is Class 10 of Part 3 (Rural) Schedule 2 of the Planning and Development Regulations 2001 as amended. You are therefore requested to confirm details in relation to the conditions/limitations of the planning exemption as follows:

- 1.No such structure shall be used for any purpose other than the exercising or training of horses or ponies.
2. No such area shall be used for the staging of public events.



Executive Planner

01/06/2023

Planning Department,
Cork County Council,
County Hall,
Cork.
T12 R2NC



11 May 2023

RE: Application for Agricultural Planning Exemption under Class 6.

Kenneth Whyte, Mylane, Ovens, Co. Cork.

Dear Sir / Madam,

Please find enclosed the following in relation to the above application:

- 4 no. copies – Application Form.
- 1 no. copy – Contact Details.
- 4 copies – Structures Sheet.
- 4 copies – Location Map Scale 1:10,560
- 4 copies – Location Map Scale 1:2,500
- 4 copies – Site Layout Plan Scale 1:500
- 4 copies – Drawings & Elevations
- €80 application fee.

Total for existing Class 10 structure is 324m². Total for proposed Class 10 structure is 882m² which we understand is within the Class 10 limits.

Applicant wishes to apply for a TAMS 3 grant so I would appreciate if this could be dealt with promptly as the current tranche closing date is the 16th June.

If you have any further queries, please do not hesitate to contact me.

Yours Sincerely,

Ricky Roycroft BSc. Agri. Bus. (Hons.)

Phone: 023 8849000

Mobile: 087 2804202



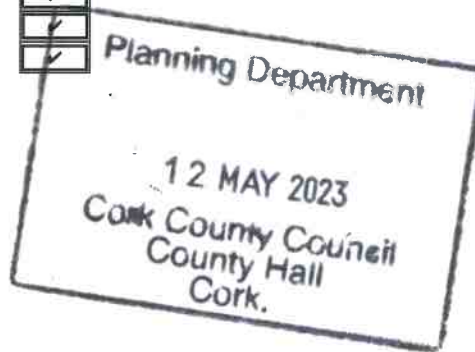
CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

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:

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
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<input checked="" type="checkbox"/>



FOR OFFICE USE ONLY

Receipt No.	P12-000255
Cash/Cheque/ Credit Card	Cheque
Date	12/05/2023
Declaration Ref. No.	D/242/23

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.

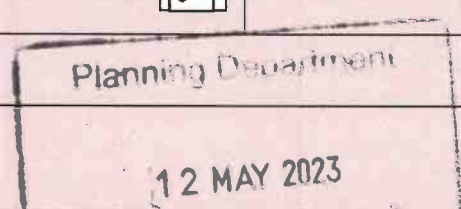
Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data 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.

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):	Class 10 - Existing 324m ² , Proposed 882m ²
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 st October, 1964 (including those for which planning permission has been obtained):	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas (m ²) and previous planning reference(s) where applicable:
(c) If a change of use of land and/or building(s) is proposed, please state the following: Existing/previous use N/A	Proposed use N/A
(d) Are you aware of any enforcement proceedings connected to this site?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please state relevant reference number(s):

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

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

6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

Is this a Protected Structure/Proposed Protected Structure or within the curtilage of a Protected Structure: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority: Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, please state relevant reference No. _____
Is this site located within an Architectural Conservation Area (ACA), as designated in the County Development Plan? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

7. APPROPRIATE ASSESSMENT:

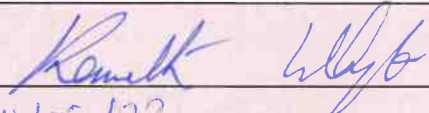
Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes No

8. DATA PROTECTION DECLARATION:

In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council’s Privacy Policy available at <http://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

Processing of your Declaration of Exemption application by the Planning Authority

I give permission for my personal information to be processed for the purpose stated above

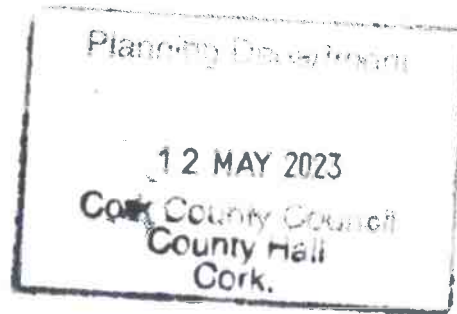
Signed (By Applicant Only)	
Date	11/05/23

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

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

Special Categories of data / Sensitive Personal data include:

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



In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council’s Privacy Policy available at <https://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

Sensitive personal data being submitted in support of Declaration of Exemption Application

I give permission for my sensitive personal data submitted to the Planning Authority to be processed for the purpose stated above.

Signed	
Date	

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.

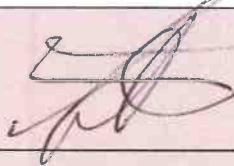
ADVISORY NOTES:

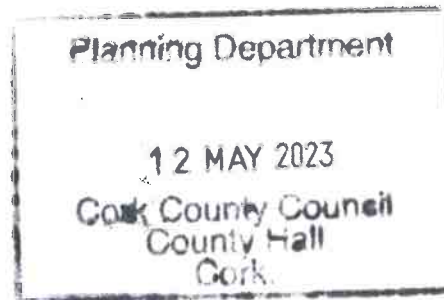
The application must be accompanied by the required fee of €80
 The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.
 Sufficient information should be submitted 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	11-May-2023



Farm Structures List. -

Kenneth Whyte, Mylane, Ovens, Co. Cork

Class 6 ANIMAL HOUSING						Class 8 DAIRY (ETC.); SILOS; SOILED YARDS						Class 9 STORAGE BUILDINGS; CLEAN YARDS					
ID No.	Description of Structure	Animal Type	Length(m)	Width(m)	Area(m2)	ID No.	Description of Structure	Length(m)	Width(m)	Area(m2)	ID No.	Description of Structure	Length(m)	Width(m)	Area(m2)		
A. EXISTING STRUCTURES IN FARMYARDS						A. EXISTING STRUCTURES IN FARMYARDS						A. EXISTING STRUCTURES IN FARMYARDS					
E	Stable Block	Horse	15.0	13.5	202.5	F	Dung Heap	10	5	50.0	A	Store / Machinery Shed	15.0	8.0	120.0		
											B	Store / Machinery Shed	18	5.0	90.0		
											C	Store	14.5	6	87.0		
					202.5						50.0						297.0

B. PROPOSED NEW STRUCTURES						B. PROPOSED NEW STRUCTURES						B. PROPOSED NEW STRUCTURES					
					0.0						0.00						0.0
					0.0						0.00						0
											0.00						
											0.00						
Total:					202.5	Total:					50.00	Total:					297.0

C. Existing Class 10 Structures					
ID No.	Description	Length(m)	Width(m)	Area (m2)	
D	Lunge Area	18.0	18.0	324.00	
				0.00	
				0.00	
				0.00	
				0.00	
				0.00	
				0.00	
Total:				324.00	

D. Proposed Class 10 Structures					
ID No.	Description	Length (m)	Width(m)	Area (m2)	
G	Outdoor Exercise Arena	42.00	21.00	882.00	
Total:				882.00	

Cork County Council
 Planning Department
 12 MAY 2023
 Cork County Hall
 Cork.

WE HEREBY DECLARE THAT THE ABOVE INFORMATION AND THE ACCOMPANYING LAYOUT PLAN ARE A TRUE RECORD OF EXISTING AND PROPOSED STRUCTURES FOR THIS FARM

PREPARED BY

[Signature]
 Rickard Roycroft, BSc. Agri Bus. (Hons)

Planning Pack Map



Tailte Éireann



CENTRE COORDINATES:
ITM 555336,566035

PUBLISHED: 10/05/2023
ORDER NO.: 50333796_1

MAP SERIES: 1:5,000
MAP SHEETS: 6466

COMPILED AND PUBLISHED BY:
National Mapping Division of Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4
www.tailte.ie

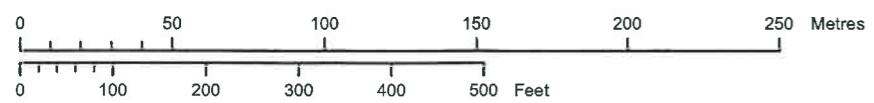
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LEGEND:
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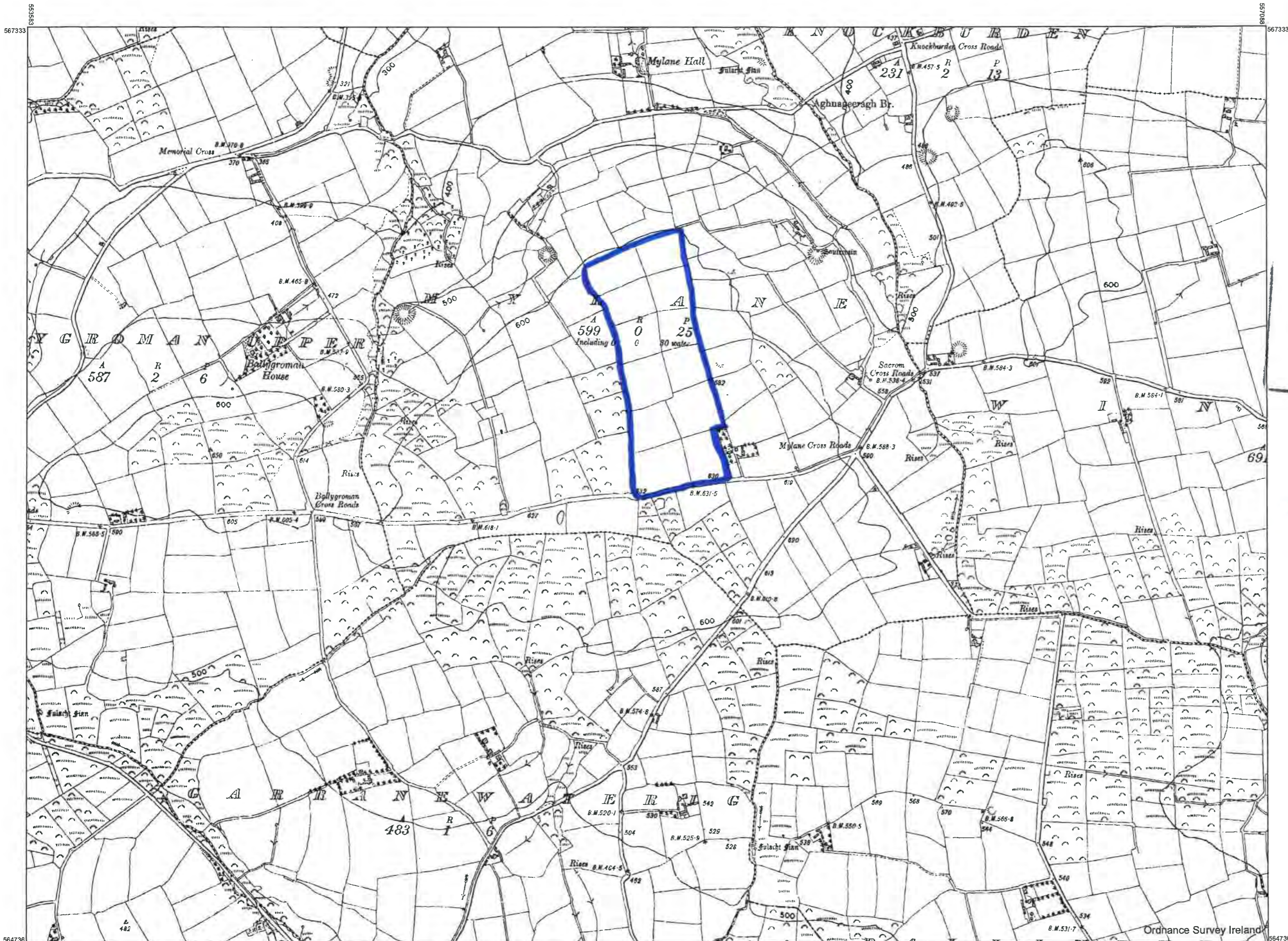


 This map was produced by the National Mapping Division of Tailte Éireann, formerly Ordnance Survey Ireland (OSi)

Site Location Map



Tailte Éireann



CENTRE COORDINATES:
ITM 555336,566035

PUBLISHED:
10/05/2023

ORDER NO.:
50333796_1

MAP SERIES: 6 Inch Raster
MAP SHEETS: CK085
Planning Department

12 MAY 2023
Cork County Council
County Hall
Cork.

COMPILED AND PUBLISHED BY:
National Mapping Division of
Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4

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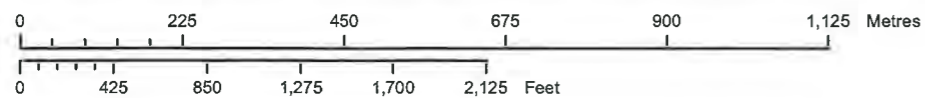
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Further information is available at:
www.osi.ie; search 'Capture Resolution'

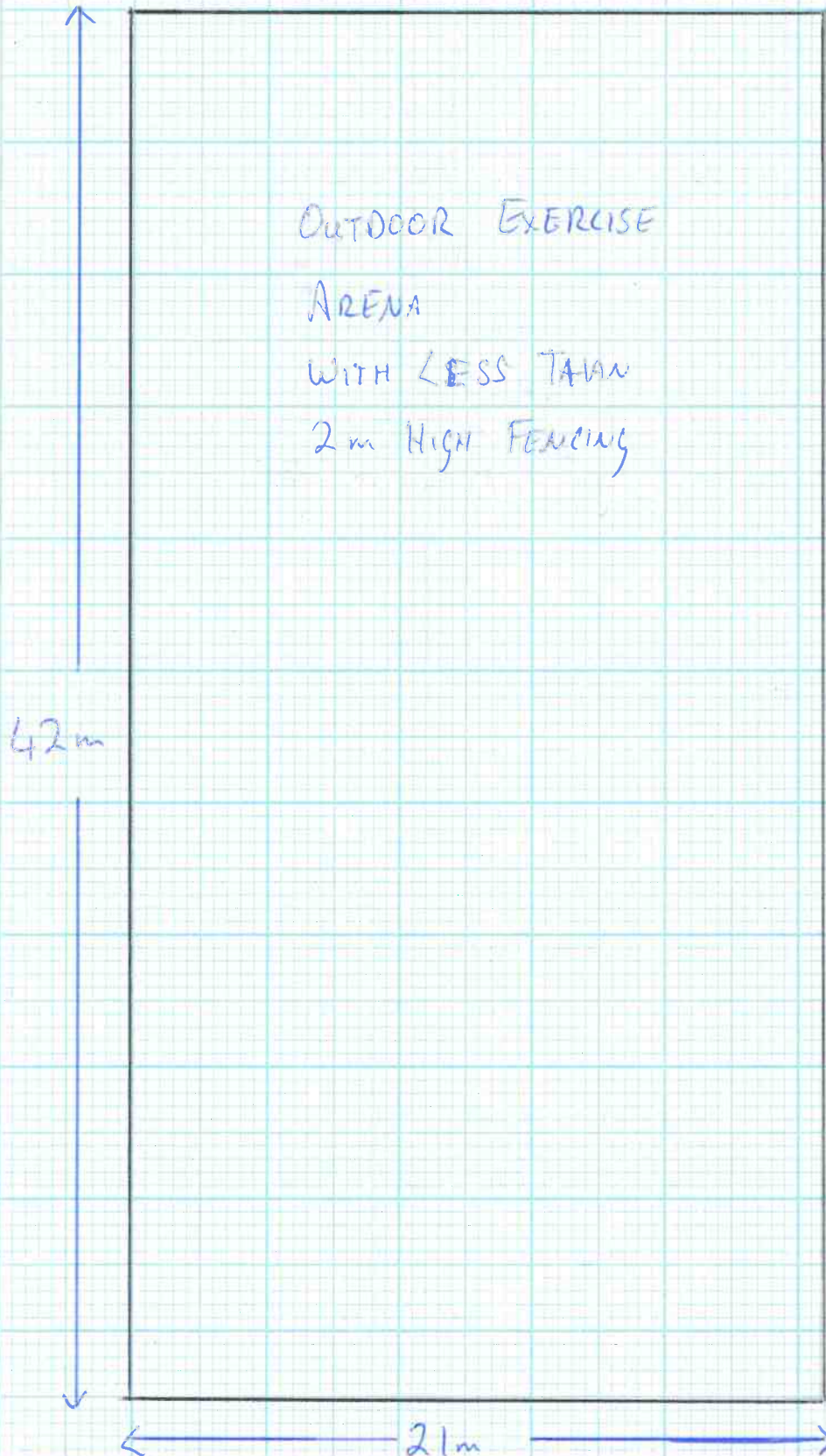
LEGEND:
To view the legend visit
www.osi.ie and search for
'Large Scale Legend'



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KENNETH LONNYTE, MYLANE, OWENS, Co. LOND.

FLOOR PLAN
SCALE 1:200



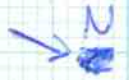
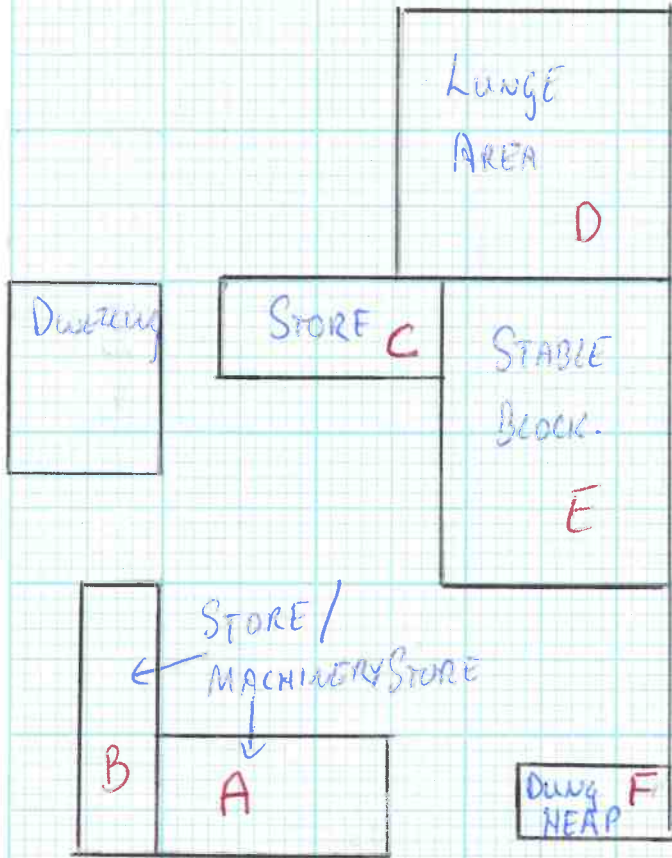
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11/05/23

SITE LAYOUT



SCALE 1:500

PROPOSED
OUTDOOR
EXERCISE
ARENA
WITH LESS
THAN 2m
HIGH FENCING

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