## Comhairle Contae Chorcaí Cork County Council

Tadgh Reilly, C/O Tony O' Sullivan Architects, 64 The Glenties, Macroom, Co. Cork, P12 C921.

9th March, 2023

REF:

D/208/23

LOCATION:

Kilbarry, Macroom, 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 7<sup>th</sup> February 2023 the Planning Authority, having considered the question whether or not the construction of a shed for agricultural use (housing agricultural machinery and equipment) at **Kilbarry, Macroom, 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)
- Schedule 2 of the Planning and Development Regulations 2001 (as amended) and
- The particulars received by the Planning Authority on 7<sup>th</sup> February 2023

#### And Whereas Cork County Council has concluded that -

The construction of a shed for agricultural use (housing agricultural machinery and equipment) at **Kilbarry**, **Macroom**, **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.







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 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 <a href="https://www.corkcoco.ie/privacy-statement-cork-county-council">https://www.corkcoco.ie/privacy-statement-cork-county-council</a>

- I. Application Type Section 5 Declaration
- II. Description Whether or not the construction of a shed for agricultural use (housing agricultural machinery and equipment) is or is not development and is nor is not exempted development.
- III. Location Kilbarry, Macroom
- IV. Applicant Tadgh Kelly

#### 1.0 Requirements for a Section 5 Declaration Application

Section 5(1) of the Planning and Development Act as amended states:

**5.**—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

#### 2.0 The Question Before The Planning Authority

Whether or not the construction of a shed for agricultural use (housing agricultural machinery and equipment) is or is not development and is nor is not exempted development.

#### 3.0 Site Location

The subject site is located in Kilbarry, Macroom and comprises an agricultural field.

#### 4.0 Relevant Planning History

None.

#### 5.0 Relevant Planning Legislation and Regulations

Planning and Development Act 2000, (as amended)

Section 2(1) of the Act defines "works" as follows:

"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) of the Act defines "development" as follows:

"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."

Planning and Development Regulations, 2001 (as amended)

Part 3, Class 8 of the Planning and Development Regulations, 2021 (as amended) states

'Works consisting of the provision of roofless cubicles, open loose yards, selffeed silo or silage areas, feeding aprons, assembly yards, milking parlours or structures for the making or storage of silage or any other structures of a similar character or description, having an aggregate gross floor space not exceeding 200 square metres, and any ancillary provision for effluent storage.'

#### 6.0 Environmental Screening

Not applicable.

#### 7.0 Planning Assessment

Works is defined in the Act as 'the carrying out of works on, in, under or works and includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

Having regard to the above, it can be reasonably determined that the construction of a shed for agricultural use is development.

The question before the Planning Authority is to determine, whether or not the shed for agricultural use is or is not exempted development.

Part 3, Class 8 of the Planning and Development Regulations, 2021 (as amended) states 'Works consisting of the provision of roofless cubicles, open loose yards, selffeed silo or silage areas, feeding aprons, assembly yards, milking parlours or structures for the making or storage of silage or any other structures of a similar character or description, having an aggregate gross floor space not exceeding 200 square metres, and any ancillary provision for effluent storage' subject to the following conditions and limitations:

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

The structure is to store agricultural machinery and equipment.

2. The gross floor space of such structures 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.

The structure would have a GFA of 134.5 sq m. The structure is located within an agricultural field.

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 the Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.

The structure is to store agricultural machinery and equipment.

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

The structure would be situated more than 10 m from the public road.

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

The structure would have a maximum height of 5.3 m.

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.

The existing house to the south-west is 123 m from the structure.

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

The structure is a green metal cladding.

Having regard to the above, it is considered that the conditions and limitations of Part 3, Class 8 of the Planning and Development Regulations, 2021 (as amended) have been met and the works are exempted.

#### 8.0 Recommendation

In considering this referral, regard has been had to:

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

And whereas, the Planning Authority has concluded that:

- (a) The works constitute 'works' that are 'development'.
- (b) The works is development and is exempted development.

Ciara Cosgrave Assistant Planner 08/03/2023



tel: +353 (0)87 9 email: info@tosar

Date:

2023-

Our Ref:

23006

**Planning Dept** Cork County Council County Hall Carrigrohane Road Cork

Re: Application for Section 5 Declaration of Exemption for Agricultural Shed at Kilbarry, Lissa Co. Cork for Tadgh Reilly

Dear Sir/Madam,

I hereby enclose an application for a Section 5 Declaration of Exemption for a new agricultural as per above. The shed will be used for housing agricultural machinery and equipment. We bel that the works are exempt under PART 3, Article 6, Exempted Development — Rural guidelines works are within the parameters listed below. The entire landholding in the applicants' owners 23.6Ha / 58.4 acres.

#### Agricultural Structures

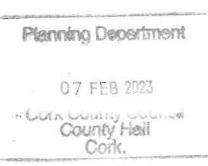
CLASS 9

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

- 1. No such structure shall be used for any purpose other than the purpose of agriculture or fores but excluding the housing of animals or the storing of effluent.
- 2. The gross floor space of such structures together with any other such structures situated with same farmyard complex or complex of such structures or within 100 metres of that complex sha exceed 900 square metres gross floor space in aggregate.
- 3. No such structure shall be situated within 10 metres of any public road.
- 4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
- 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 appropri the occupier or person in charge thereof.
- 6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structur

Please find enclosed the following information in support of this Section 5 application:-

- 4 Copies Section 5 Application Form
- 4 Copies Ordnance Survey Maps
- 4 Copies Site Plan
- 4 Copies Plans, Section & Elevations of Proposed Shed
- 4 Copies Applicant Folio Maps 1, 2 & 3
- Application Fee Cheque for €80.00



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I trust that the submitted information is sufficient for you to view this application, but if I can be of any further assistance to you, or should you require any further information, please do not hesitate in contacting me.

Yours Sincerely

Tony O'Sullivan MRIAI

Tony O'Sullivan Architects Ltd







# CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHEC	<u>CKLIST</u>	(Please tick $\sqrt{\ }$ )	
4 No. Copies of Ap 1 No. Copy of Con 4 No. Copies 6" O 4 No. Copies 25" O 4 No. Copies of Sid 4 No. Copies Scale €80 Application F	tact Details: S. Maps: O.S. Maps: te Layout Plan: d Drawings of Development:		
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Cash/Cheque/ Credit Card	CHEENE Clabo		

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  $3^{rd}$  parties to view.

**DATE STAMP HERE** 

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

**Declaration** 

Ref. No.

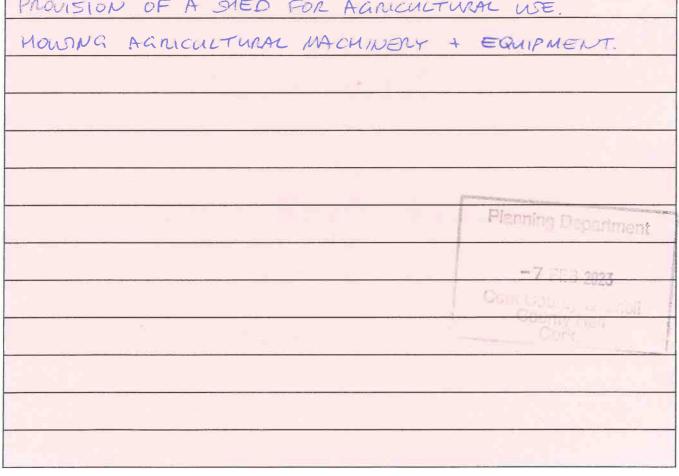
• Details of fill material and duration of fill.

#### **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 <a href="http://www.corkcoco.ie/Privacy-Policy">http://www.corkcoco.ie/Privacy-Policy</a> 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 <a href="mailto:dpo@corkcoco.ie">dpo@corkcoco.ie</a> 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)
TADGH	NEILLY
	ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION OF FION IS SOUGHT:
MCBARRY	MACROOM, CO. CORK
Please state the spec Note: Only works lis	ON/DECLARATION DETAILS:  ific question for which a Declaration of Exemption is sought sted and described under this section will be assessed under the Section 5 Declaration of Exemption
	AGRICULTURAL MACHINERY + EQUIPMENT.



) Floor area of existing/proposed structure(s):	134 5gm
any previous 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 No
e) If a change of use of land and/or building(s) is proposed, please state the following:	
Existing/previous use	Proposed use
anicultural FIELD	AGNICULTURAL SMED
l) Are you aware of any enforcement proceedings connected to this site?	Yes No No
Process of the second of the s	If yes, please state relevant reference number(s):
	N/A Planning Departm
LEGAL INTEREST OF APPLICANT IN T	THE LAND/STRUCTURE:
ase tick appropriate box to show applicant's	A. Owner B. Other
I interest in the land or structure: ere legal interest is "Other", please state	TOWN ASSESSMENT OF THE PROPERTY OF THE PROPERT
r interest in the land/structure:	MA
ou are not the legal owner, please state the	
the of the owner/s (address to be supplied at	N/A
estion C in Contact Details):	
PROTECTED STRUCTURE DETAILS / A	ARCHITECTURAL CONSERVATION AREA:
ris a Protected Structure/Proposed Protected Structure: Yes No	ucture or within the curtilage of a Protected
es, has a Declaration under Section 57 of the Plassued for the property by the Planning Authority	anning & Development Act 2000 been requested y: Yes No
es, please state relevant reference No. W/A	
	ation Area (ACA), as designated in the County

#### 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 <a href="http://www.corkcoco.ie/privacy-statement-cork-county-council">http://www.corkcoco.ie/privacy-statement-cork-county-council</a> 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)	Tadoh Reithy
Date	01/02/2023

#### 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 <a href="https://www.corkcoco.ie/privacy-statement-cork-county-council">https://www.corkcoco.ie/privacy-statement-cork-county-council</a> 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	Tadgh Reilly
Date	0/01/2023

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: <a href="mailto:planninginfo@corkcoco.ie">planninginfo@corkcoco.ie</a> or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: <a href="mailto:westcorkplanninginfo@corkcoco.ie">westcorkplanninginfo@corkcoco.ie</a> 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:

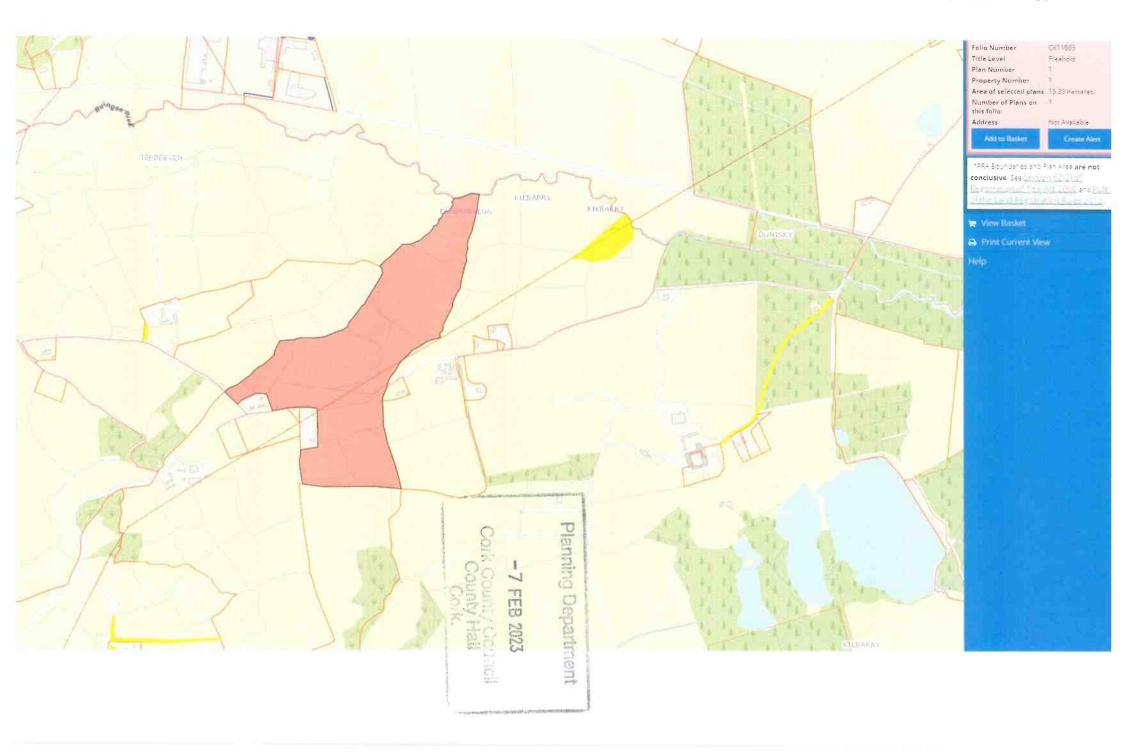
The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- 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.

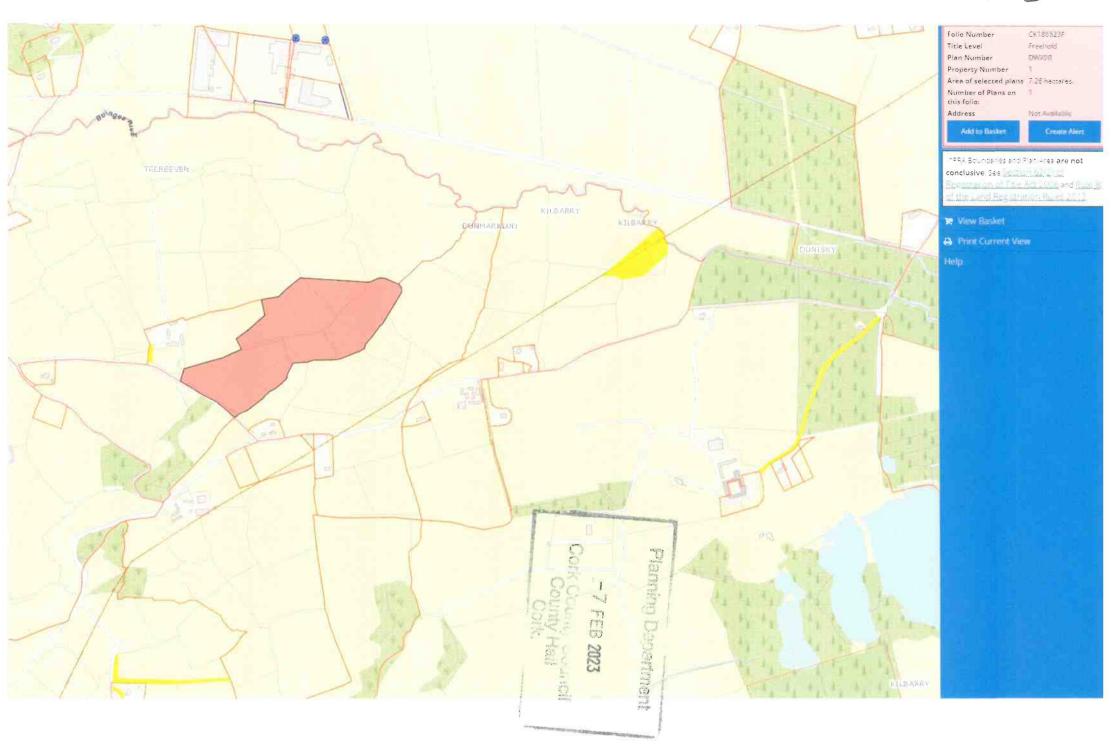
The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be 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.

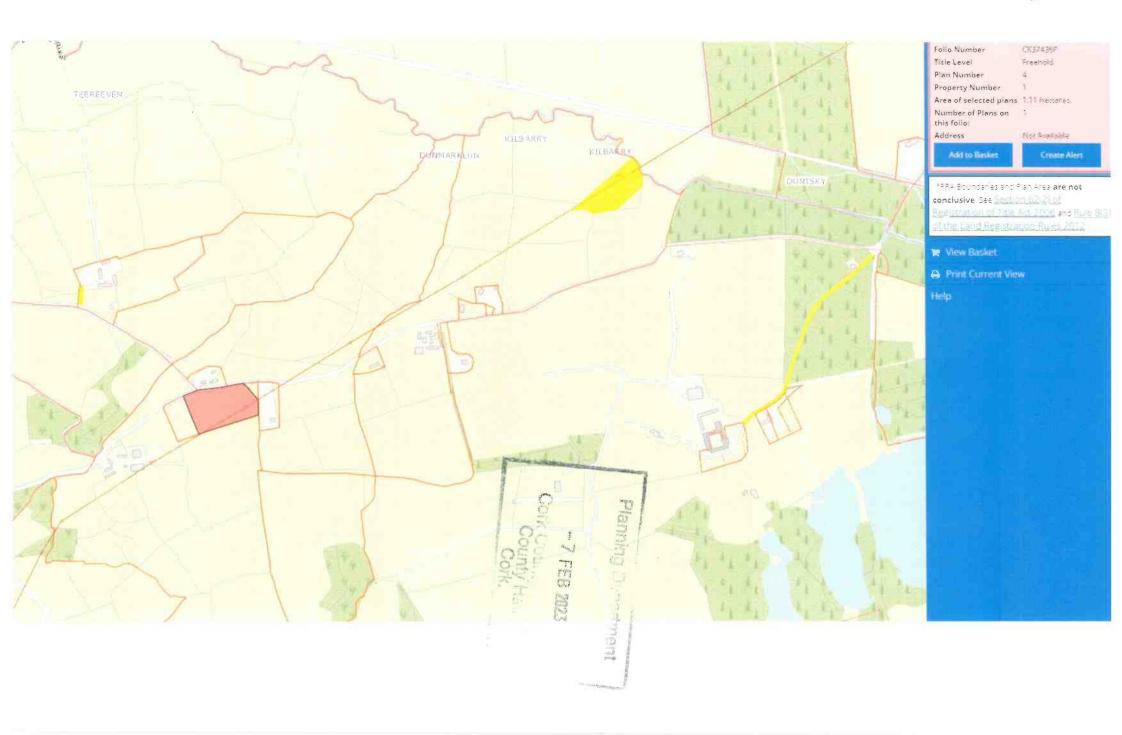
9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the <u>Planning and Development Acts 2000</u>, as amended and the Regulations made thereunder:

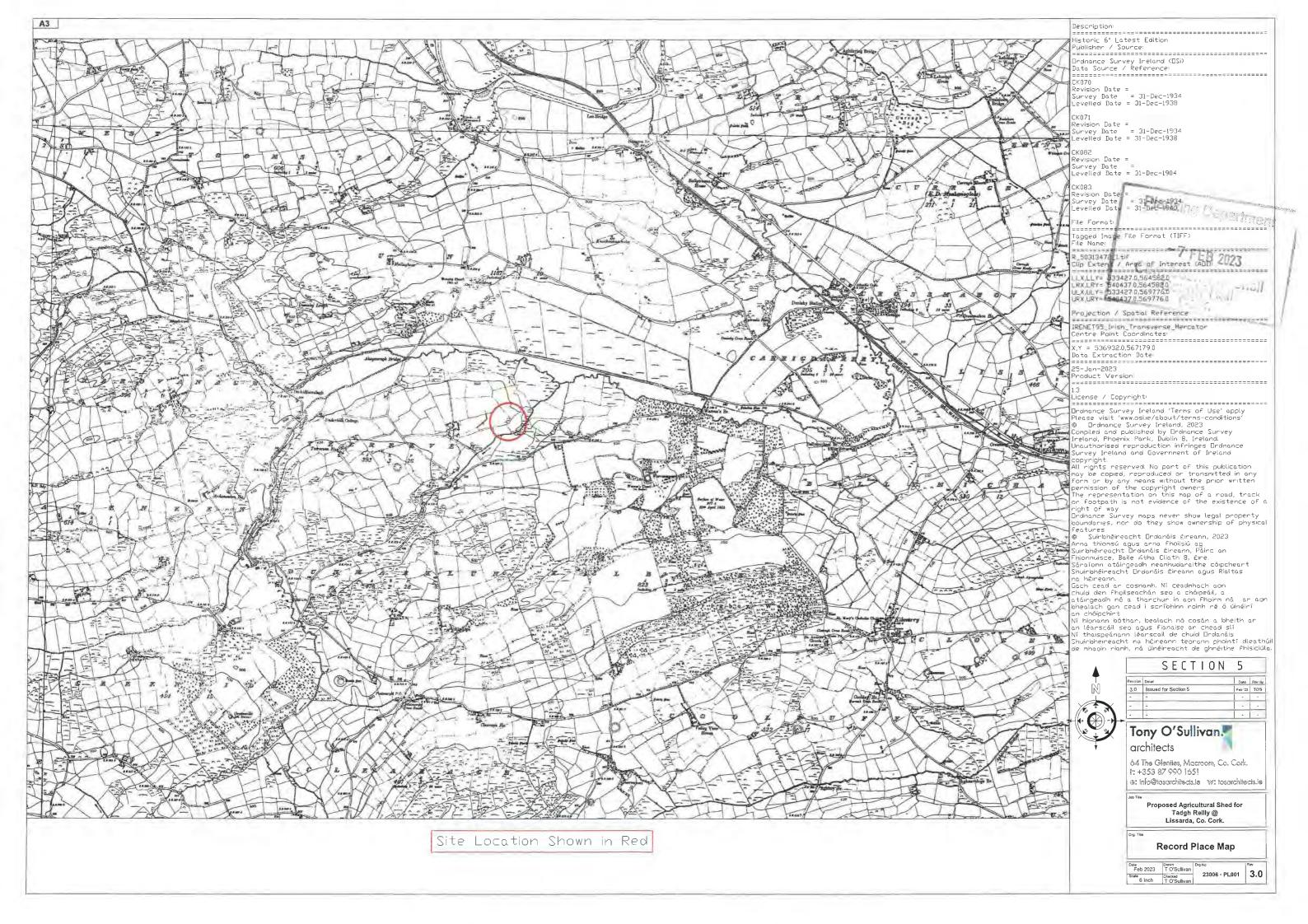
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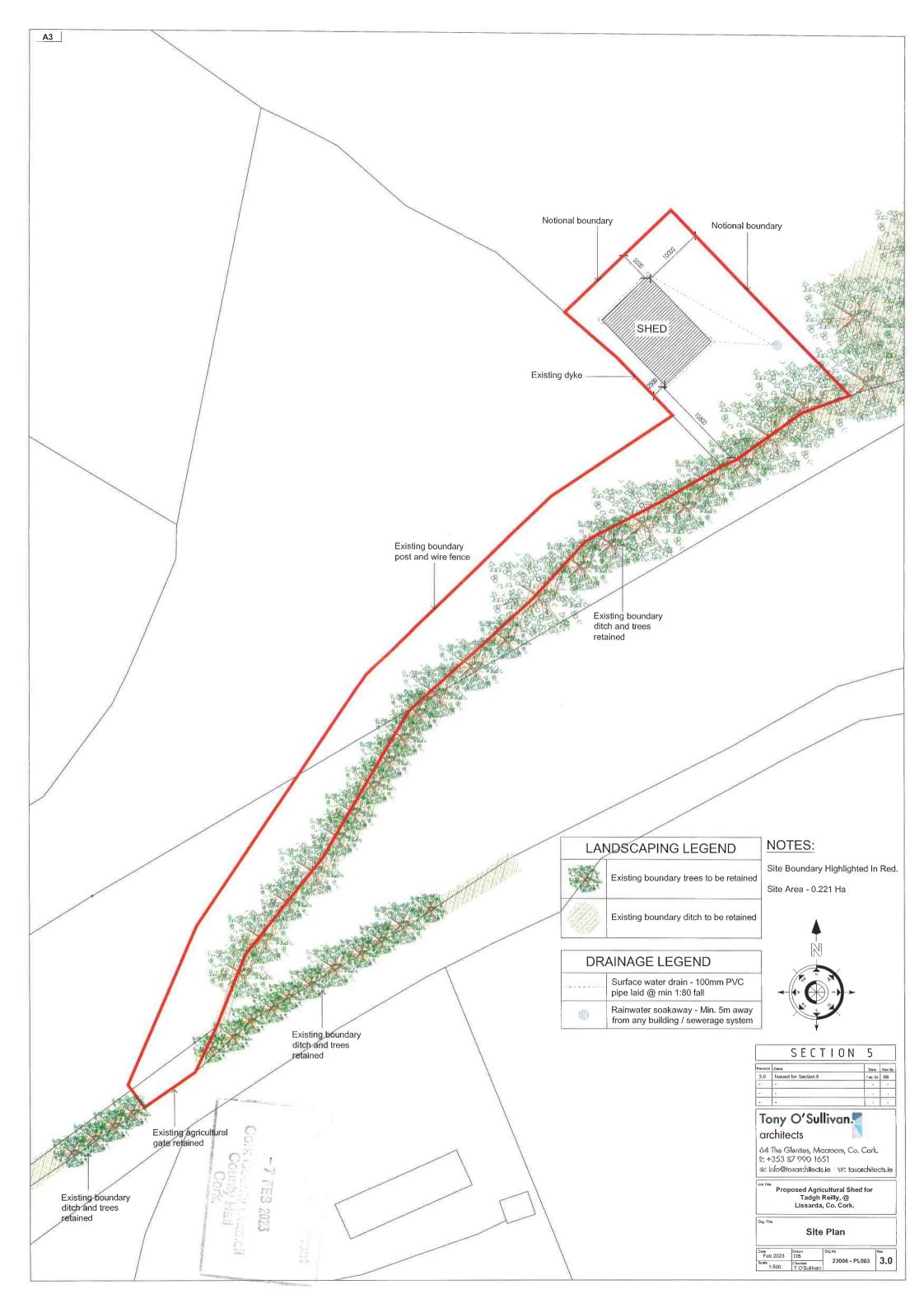
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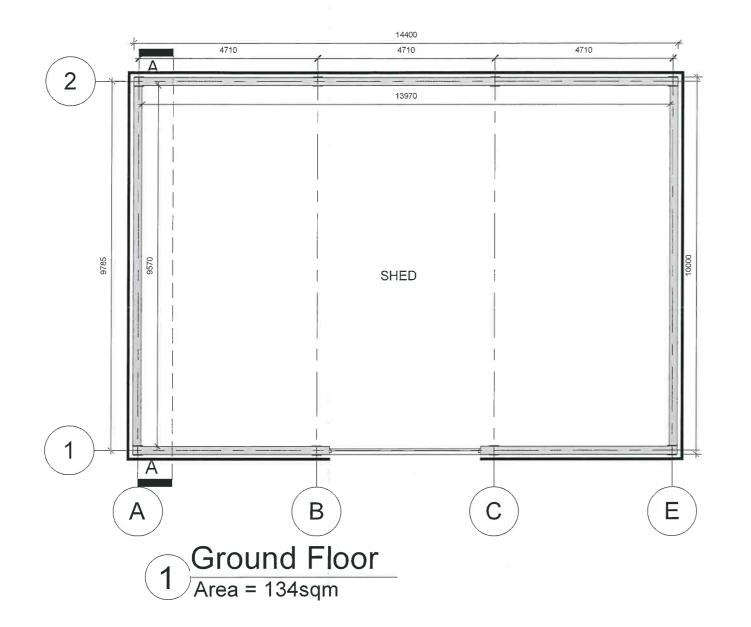




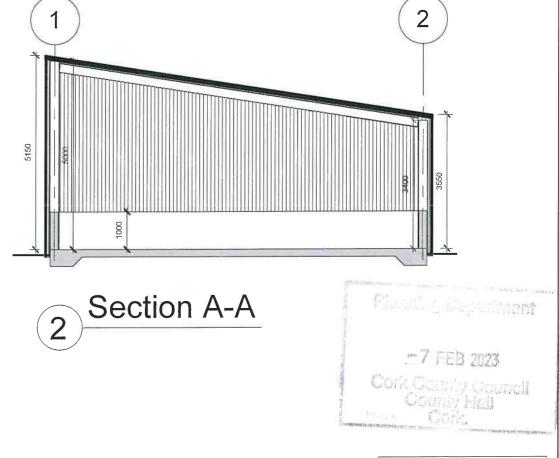


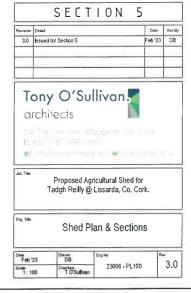


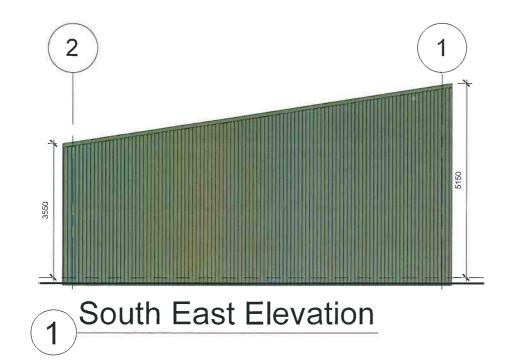


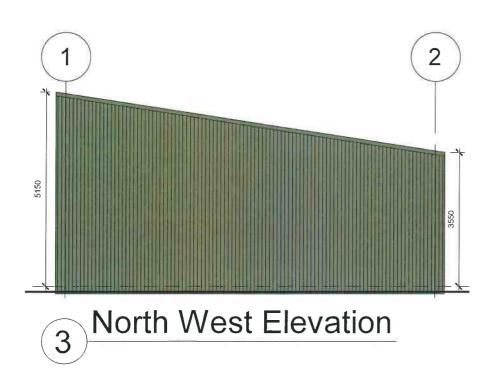




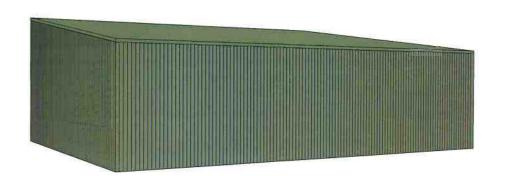




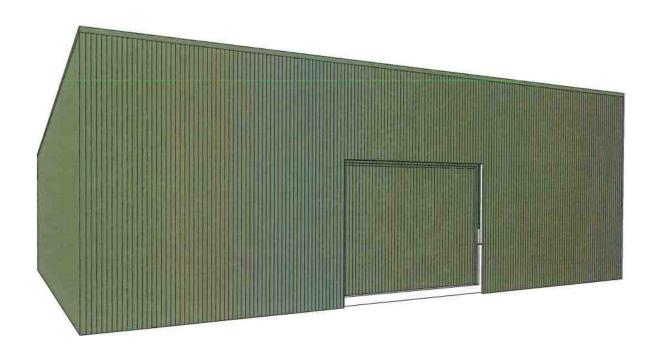




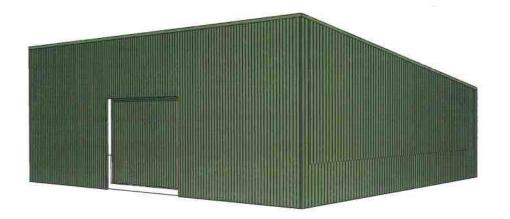




West Visual



East Visual

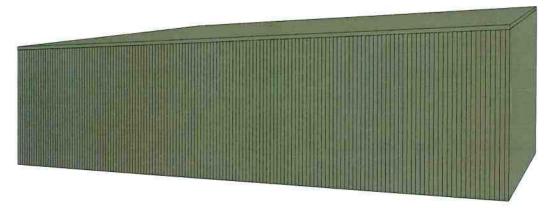


North Visual

Planning Department

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Congress Gouncil
Congress Hall



South Visual

