

Comhairle Contae Chorcaí Cork County Council

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Planning Department,



County Hall,

Carrigrohane Road, Cork T12 R2NC

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

Noel Coleman
C/O Keith Coleman,
Knockardbane,
Liscarroll,
Mallow,
Co. Cork.
P51 HX30

22nd March, 2023

REF: D/215/23
LOCATION: Knockardbane, Liscarroll, Mallow, Co. Cork P51 HX30

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

Dear Sirs,

On the basis of the plans and information submitted by you on the 28th February, 2023 the Planning Authority having considered whether the construction of an agricultural shed at **Knockardbane, Liscarroll, Mallow Co. Cork** is or is not development and is or is not exempted development has declared that it **is development and is not exempted development.**

Reason for Decision

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

- The particulars received by the Planning Authority on the 28th February, 2023.
- Sections 2 and 3 of the Planning and Development Act 2000, as amended.
- Articles 6(1) and 9(1) of the Planning and Development Regulations 2001, as amended.
- Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 as amended.

And Whereas Cork County Council has concluded that –

The cumulative gross floor area of the structures in addition to existing structures within the same farmyard complex exceeds 300m² therefore the proposal is **determined NOT to be exempt** in accordance with the restrictions on exempt development set out under the Planning and Development Regulations Schedule2, Part 3, Class 6, Condition 2.

And now therefore the Planning Authority hereby decides that

The construction of an agricultural shed at **Knockardbane, Lisscarroll, Mallow Co. Cork** is **development and is not exempted development.**

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

Yours faithfully,



KEVIN O'REGAN,
SENIOR EXECUTIVE OFFICER,
PLANNING DEPARTMENT

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

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

<i>Ref No.</i>	D/215/23
<i>Applicant</i>	Noel Coleman
<i>Description</i>	Agricultural Shed
<i>Location</i>	Knockardbane, Liscarroll

Section 5 Query

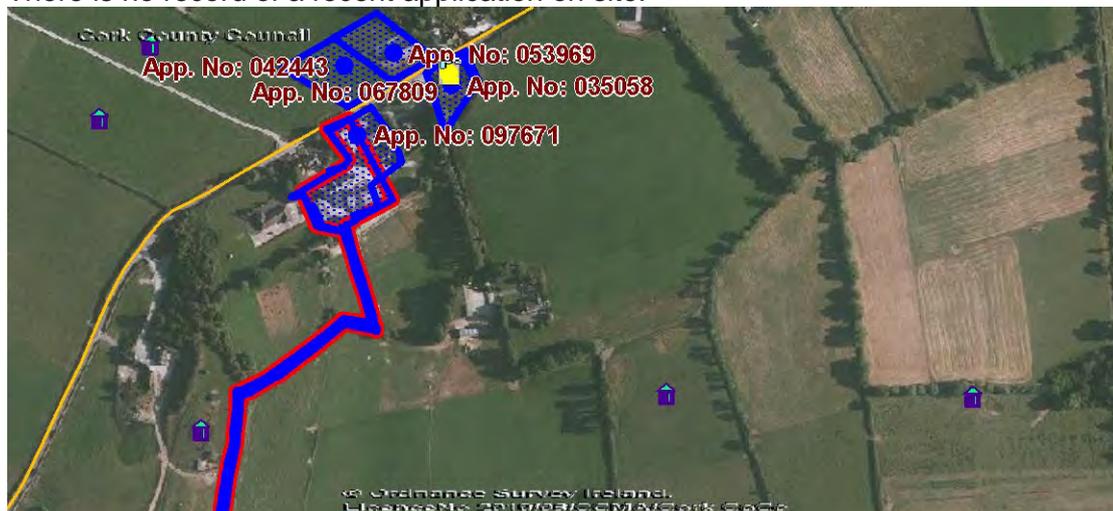
The subject of the section 5 query is whether the construction of an agricultural building on a site in Knockardbane, Liscarroll, constitutes exempted development.

Site Location and Description

The proposal comprises an agricultural shed on a site in Knockardbane, to the north east of Liscarroll. The site adjoins local road, L1320. The shed is proposed at the end of a laneway to the south of the existing farm complex. The site is located outside of areas identified as High Value Landscape in the CDP. There are no scenic routes in the vicinity. The site is located within the screening zone for Blackwater River Special Area of Conservation. The site is located outside of the mapped flood risk zones A and B, as set out in the Cork County Development Plan 2022. Therefore, the site is located within flood zone C.

Planning History

There is no record of a recent application on site.



Legislative Context

Planning and Development Act 2000, as amended

Section 2 (1)

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

Section 3 (1)

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.

The Planning and Development Regulations 2001 as amended.

Article 6(1) states that 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 conditions and limitations specified in Column 2 of said Part 1 opposite the mention of that class in said Column 1.

Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

Class 6 refers to 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.

This class is limited by a number of conditions.

Article 9(1)

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

- (a) if the carrying out of such development would-
 - (i) 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, layout out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4m in width,
 - (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
 - (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main, or electricity supply line or cable, or any works to which class 25, 26 or 31(a) specified in column 1 of Part 1 of Schedule 2 applies.
 - (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.

- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features, or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan.

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended.

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- (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.
- (ix) Consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of any existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified 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.
- (x) Consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility.
- (xi) obstruct any public right of way.
- (xii) Further to 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) in an area to which a special amenity area order relates, if such development would fall under (i),(ii), (iii) or (iv)
- (c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive
- (d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.

Assessment

The query relates to an agricultural shed on a site to the south of the existing farm complex in Knockardbane, on the north eastern side of Lisscarroll.

The proposal comprises development as defined in Section 3 (1) of the Planning and Development Act, 2000 where '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'.

Class 6

Class 6 refers to 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. The development description complies with this class. The proposed floor area of 170 sq m falls within the specified limit.

This class is limited by the following conditions;

Condition 1 – *'No such structure shall be used for any purpose other than the purpose of agriculture'*. It is intended to house calves within an existing farm complex. This condition is complied with.

Condition 2 – *'The gross floor space of such structures together with any other such structures situated within the same farmyard complex or within 100m of that complex shall not exceed 300 sq m gross floor space in aggregate.'* The floor areas of the other farm structures total 465 sq m. It is noted that slatted unit to the north incorporates a canopy. Nevertheless, the stated limit would be exceeded in this case. The proposal does not comply with the requirements of condition 2.

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

A report is due from the Environmental Officer.

Condition no. 4 -*'No such structures shall be situated, and no effluent from such structure shall be stored, within 10m of any public road'*. The set back distance significantly exceeds this figure.

Condition 5 – ‘No such structure within 100m of any public road shall exceed 8m in height’. The height of the building is c.7m.

Condition 5 – ‘No such structure shall be situated, and no effluent from such structure shall be stored, within 100m 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’. It appears that the dwelling to the north east is within the same ownership. There are no other residences within 100m.

Condition 6 – ‘No unpainted metal sheeting shall be used for roofing or on the external finish of the structure’. This issue could be clarified.

On the basis assessment, the structure would not be exempt under Class 6, and specifically condition no. 2.. Therefore, the restrictions set out in article 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended, do not arise.

Recommendation

Having regard to;

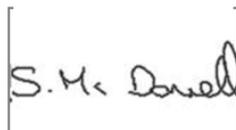
- (a) sections 2 and 3 of the Planning and Development Act 2000, as amended and
- (b) Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended,

it is considered that the proposal constitutes development and not exempted development.

P Goulding
22/03/23

Report of A/SEP dated 22/03/23

The cumulative gross floor area of the structures in addition to existing structures within the same farmyard complex exceeds 300m² therefore the proposal is **determined NOT to be exempt** in accordance with the restrictions on exempt development set out under the Planning and Development Regulations Schedule 2 Part 3 Class 6 Condition 2.



Sharon McDonnell
A/SEP dated 22/03/23



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.	P20002227
Cash/Cheque/ Credit Card	Cheque
Date	1/3/23
Declaration Ref. No.	D/215/23

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):	170 m 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 checked="" type="checkbox"/> If yes, please provide floor areas (m ²) and previous planning reference(s) where applicable:
(c) If a change of use of land and/or building(s) is proposed, please state the following: Existing/previous use _____ _____ Proposed use _____ _____	
(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)	Noel Coleman
Date	27/02/2023

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 <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	Noel Coleman
Date	27/02/2023

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 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.

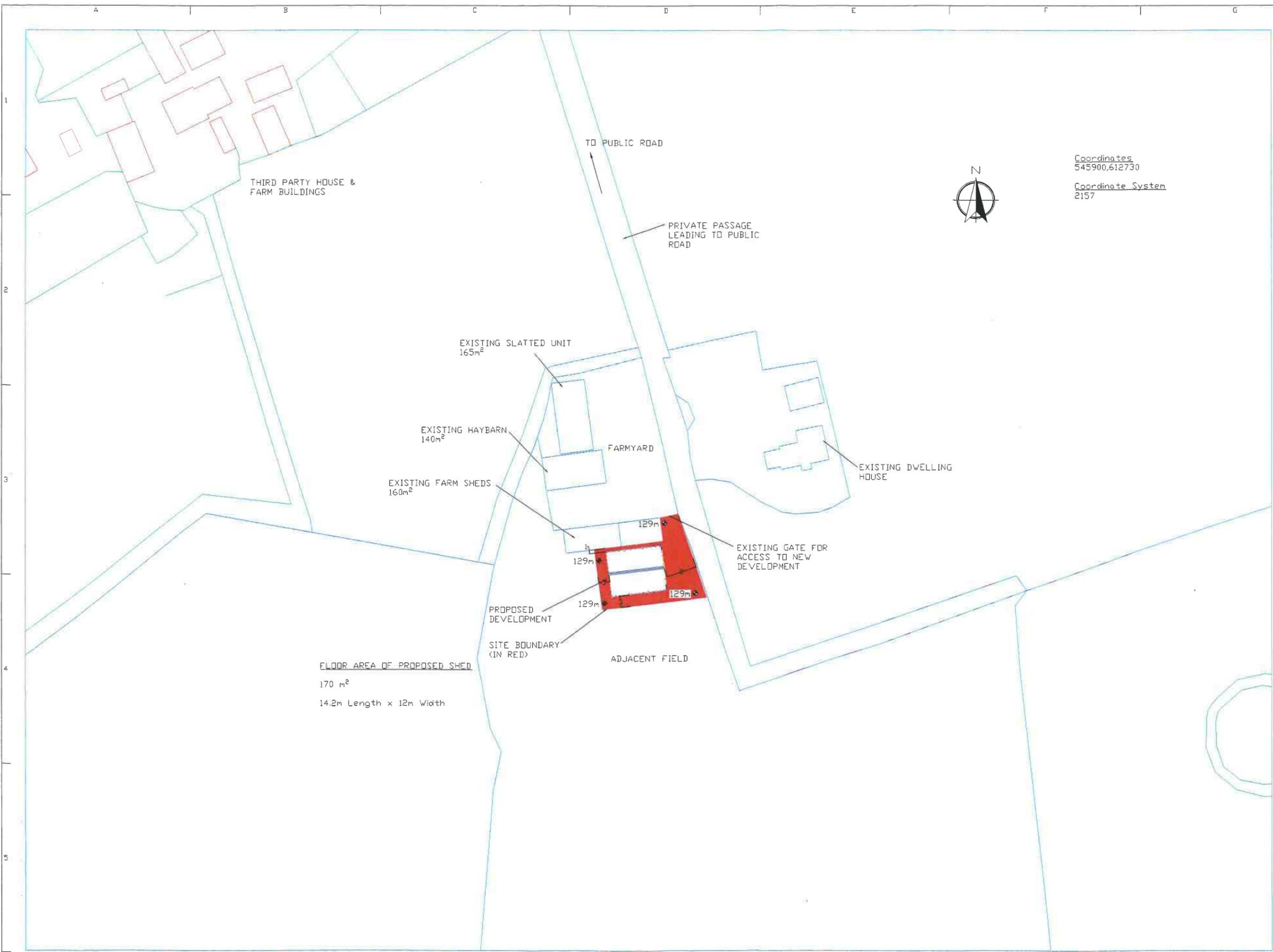
- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- The Planning Authority may request other person(s), other than the applicant; to submit information on the question which has arisen and 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)	Noel Coleman
Date	27/02/2023





- NOTE**
1. DRAWING FOR PLANNING PURPOSES ONLY
 2. PLANS DO NOT PERTAIN TO SHOW ALL INFORMATION FOR COMPLIANCE WITH BUILDING REGULATIONS.
 3. BUILDER TO ENSURE ALL WORK IS CARRIED OUT TO CURRENT SPECIFICATIONS, REGULATIONS & IS TAMS BUILDING GRANT COMPLIANT.
 4. ALL CONSTRUCTION TO BE DEPARTMENT OF AGRICULTURE S100, S101, S102 & S124 MINIMUM SPECIFICATION FOR STRUCTURE OF AGRICULTURAL BUILDINGS.

Coordinates
545900,612730
Coordinate System
2157

SITE AREA

FLOOR AREA OF PROPOSED SHED
170 m²
14.2m Length x 12m Width

PLAN
SCALE 1:1000 @ A3

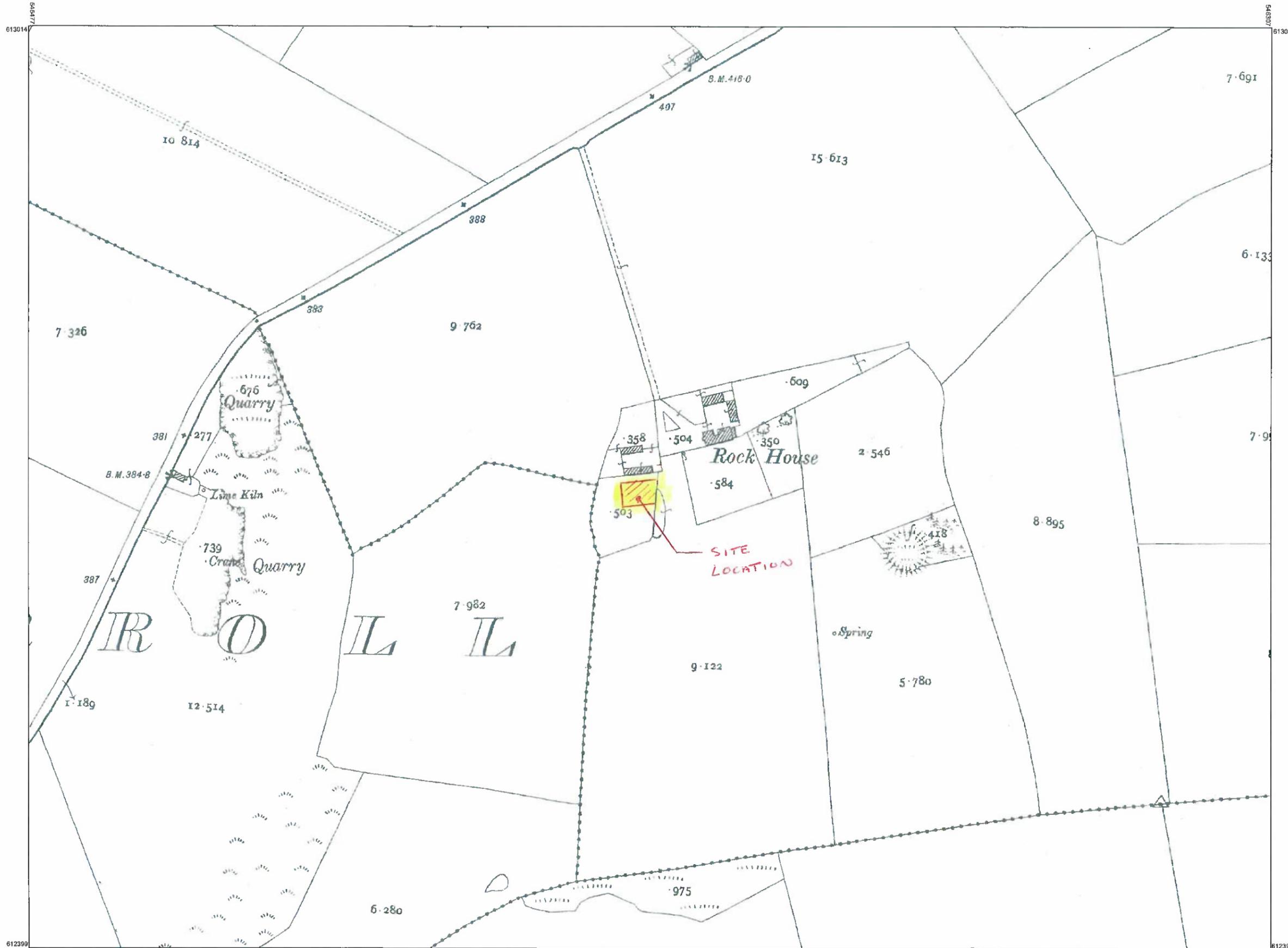
Planning Department

28 FEB 2023

Cork County Council
County Hall
Cork

DRAWING TITLE PROPOSED CALF SHED DEVELOPMENT SITE PLAN		
SHEET SIZE: A3	DRAWING NO: P-001	REV: P01
DRAWN BY: NAME: KEITH COLEMAN ADDRESS: KNOCKARBANE, LISCARROLL, MALLOW, CO. CORK		SCALE: 1:1000
DATE: 19/02/23	UNITS: METRES	

1st Edition 25 Inch Historic Map



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PUBLISHED: 27/02/2023
ORDER NO.: 50320029_1

MAP SERIES: 25 Inch Raster
MAP SHEETS: CK016-01

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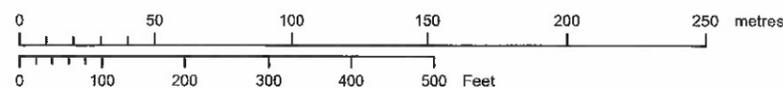
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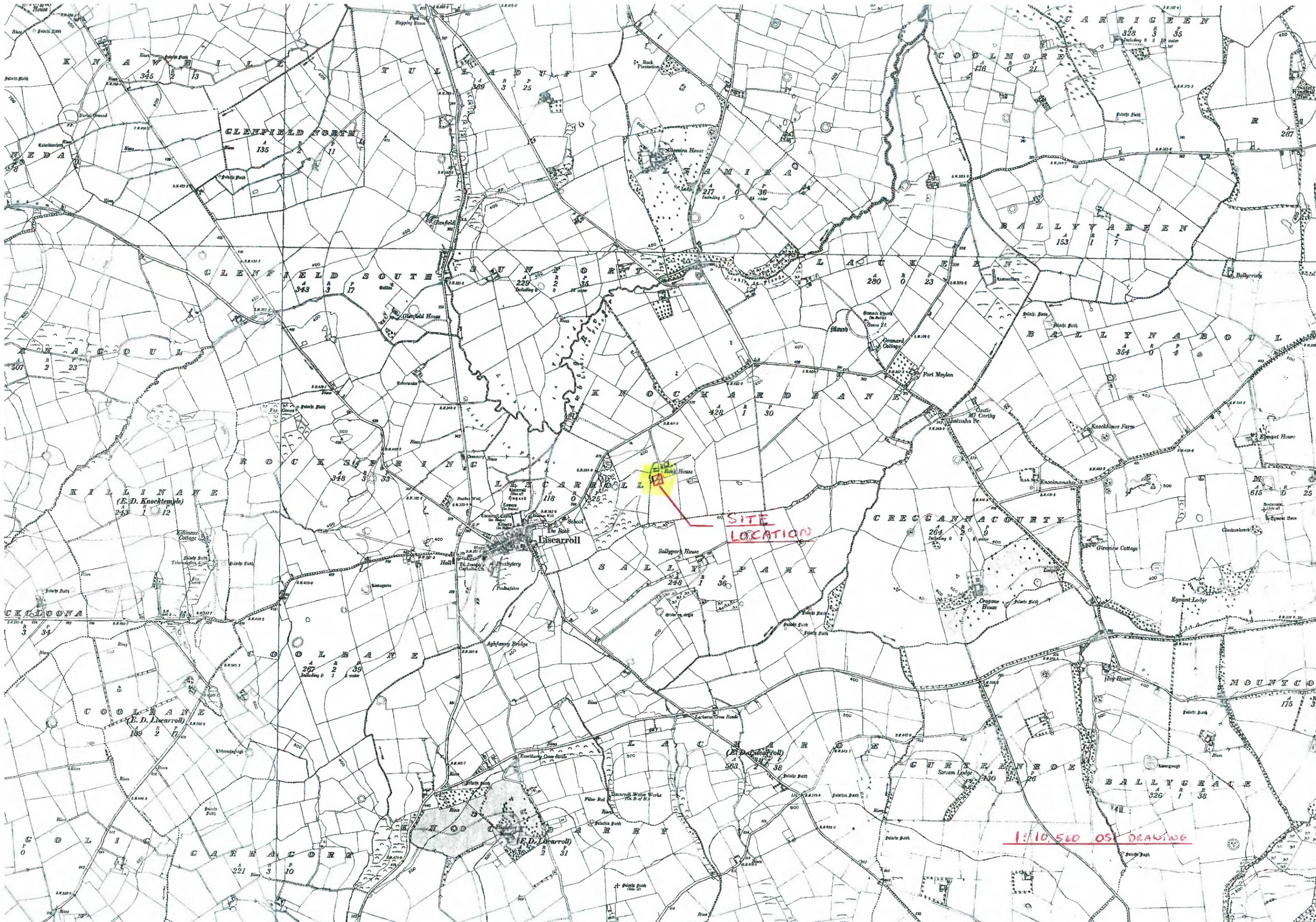
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<http://www.osi.ie>;
search 'Large Scale Legend'

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OUTPUT SCALE: 1:2,500



SITE LOCATION

1:10,560 OS DRAWING