

# Comhairle Contae Chorcaí Cork County Council

Mary & James O' Mahony,  
c/o Ceres Consulting,  
Barleyfield,  
Kilbrittain,  
Co. Cork.

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

REF: D/226/23  
LOCATION: Clashfree, 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](mailto:planninginfo@corkcoco.ie)  
Suíomh Gréasáin: [www.corkcoco.ie](http://www.corkcoco.ie)  
Planning & Development,  
County Hall,  
Carrigrohane Road, Cork T12 R2NC.  
Tel (021) 4276891 • Fax (021) 4276321  
Email: [planninginfo@corkcoco.ie](mailto:planninginfo@corkcoco.ie)  
Web: [www.corkcoco.ie](http://www.corkcoco.ie)



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

Dear Sir/Madam,

On the basis of the information submitted by you on 24<sup>th</sup> March 2023 the Planning Authority, having considered the question whether or not the construction of an animal housing to include slurry storage at **Clashfree, Bandon, 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:

- Section 3(1) and Section 4 of the Planning and Development Act 2000 (as amended)
- Class 6, Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended) and
- The particulars received by the Planning Authority on 24<sup>th</sup> March 2023

### **And Whereas Cork County Council has concluded that –**

Having considered the information received and the provisions of both the Planning and Development Act 2000 as amended and the Planning and Development Regulations 2001 as amended along with the planning history for the site the works proposed constitute "development" but is not considered exempted development having regard to Condition No 2 of the Class 6 Part 3 of Schedule 2 of Exempted development 'The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100m of the complex shall not exceed 300sqm gross floor space in aggregate'. **Therefore, the proposed works require planning permission.**

**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>*

**Planning Ref D/226/23**

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

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**Site Location:** Clashfree, Bandon, Co. Cork

**Proposed Development:** Agricultural Works. Whether the construction of an animal housing to include slurry storage is exempted development.

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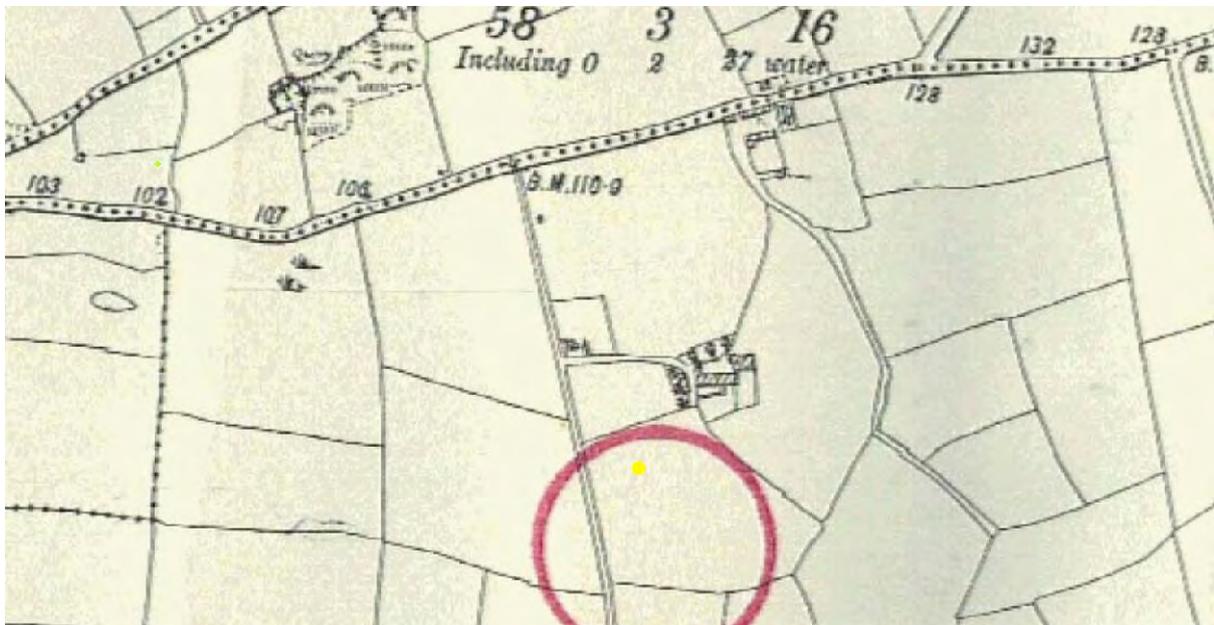
**Proposal /Context**

The applicant is seeking a determination by the planning authority as to whether or not the construction of an animal housing to include slurry storage is exempted development.

**Planning History**

Having checked the Planning registry there is no planning permission onsite for agricultural structures.

**Extract of map**



## Legislative Context

According to **Section 3(1) of the Planning and Development Act (2000 as amended)**, “development” means, save where the context otherwise requires, the carrying out of works on, in or under land or the making of any material change in the use of any structures or other land.

**Section 4** of the same Act lists works that would be considered exempted development. It also conveys power on the Minister to make regulations to provide for any class of development to be exempted development for the purposes of the Act. Under the Planning and Development Regulations 2001 as amended certain works are exempted development. Of particular relevance to this application is **Schedule 2 Part 3 of the Planning and Development Regulations (2001 as amended)**.

Description of Development	Conditions and Limitations
<p><b>Class 6</b> of said Schedule considers the 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 sq m(whether or not by extension of an existing structure) and any ancillary provision for effluent storage Conditions of Limitations</p>	<ol style="list-style-type: none"> <li>1. No such structures shall be used for any purpose other than the purpose of agricultural,</li> <li>2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 m of the complex shall not exceed 300sqm gross floor space in aggregate.</li> <li>3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agricultural , Food and Rural Development and Department of Environment and Local Government requirements and shall have regard to the need to avoid water pollution.</li> <li>4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 m of any public road.</li> <li>5. No such structure within 100m of any public road shall exceed 8m in height,</li> <li>6. 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,</li> <li>7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</li> </ol>
<p><b>Class 8</b> of said Schedule consist of provision of roofless cubicles, open loose yards, self-feed silo or silage areas, feeding aprons, assembly yards, milking</p>	<ol style="list-style-type: none"> <li>1. No such structures shall be used for any purpose other than the purpose of agricultural,</li> </ol>

<p>parlours or structures for the making or storage of silage or any other structures of similar character or description, having an aggregate gross floor space not exceeding 200 sq m and any ancillary provision for effluent storage.</p>	<ol style="list-style-type: none"> <li>2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 m of the complex shall not exceed 300sqm gross floor space in aggregate.</li> <li>3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agricultural , Food and Rural Development and Department of Environment and Local Government requirements and shall have regard to the need to avoid water pollution.</li> <li>4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 m of any public road.</li> <li>5. No such structure within 100m of any public road shall exceed 8m in height,</li> <li>6. 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,</li> <li>7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</li> </ol>
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**Article 9** of said Regulations lists a series of restrictions on exemptions.

### Referrals

As the works are to an agricultural development the opinion of the Environmental Officer was requested. The Environmental officer report is summarised as follows,

- The proposed 24 x 7.6m livestock house with 26.4 x 4.7 x 2.7 (335m<sup>3</sup> gross capacity) slatted slurry tank and covered feed passage is to be constructed at Clashfree, bandon. External agitation points are shown outside the proposed shed at each end of the tank.
- The number, type and age of cattle to be housed is not stated but is limited by the GAP Regulations and animal welfare legislation. The proposed slurry tank is adequately sized for the number of animals that can be accommodated in the proposed livestock house.
- The gross floor area of the proposed shed, including the roofed feed passage, will be approx. 182m<sup>2</sup>. Two other buildings within the red box of the site are identified as a feed store and a store. Existing buildings adjacent to the red box and within the Applicants' 17.18Ha landholding appear to consist of a dwelling house with Eircode and some outbuildings.
- The proposed shed will be approx. 150m from the public road.
- The proposed shed will be at approx. 160m from the nearest dwelling or other significant building.

I have no objection to the proposed livestock house subject to it being constructed strictly in compliance with Dept. of Agriculture, Fisheries and the Marine specification S123.

### **Assessment**

The declaration of exemption is for the construction of an animal housing to include slurry storage measuring 182.4m<sup>2</sup> within an existing farm complex. A site visit was conducted on 6<sup>th</sup> April 2023. The proposal falls under Class 6 of Schedule 2 Part 3 of the Planning and Development Regulations (2001 as amended).



Existing Farm structures on the site

It is noted that there is a Feed Store 32m<sup>2</sup> and a Store measuring 122.6m<sup>2</sup> on the site identified as A and B on the site layout. These structures have a floor area of 154.6m<sup>2</sup>. The total floor area of the proposed animal house and slatted tank is 182.4m<sup>2</sup>. When the total floor area of the existing and proposed structures are taken into consideration it comes to 337m<sup>2</sup>. As per Condition No 2 of the Class 6 Part 3 of Schedule 2 of Exempted development ‘The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 m of the complex shall not exceed 300sqm gross floor space in aggregate’. Given the fact that the total floor area of the existing and proposed agricultural buildings exceed 300m<sup>2</sup> the proposed animal house and slatted tank are not exempted development and the proposal requires planning permission.

### **Conclusion**

Having considered the information received and the provisions of both the Planning and Development Act 2000 as amended and the Planning and Development Regulations 2001 as amended along with the planning history for the site the works proposed constitute ”development” but is not considered exempted development having regard to Condition No 2 of the Class 6 Part 3 of Schedule 2 of Exempted development ‘The gross floor space of such structure together with any other such structures situated within the same farmyard complex or

within 100m of the complex shall not exceed 300sqm gross floor space in aggregate .  
Therefore the proposed works require planning permission.

Yours sincerely

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John Redmond  
Executive Planner  
17/04/2023

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

23 March 2023

**RE: Application for Agricultural Planning Exemption under Class 6.**

**Mary & James O'Mahony, Clashfree, Bandon, 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 6 buildings is 0m<sup>2</sup>. Total for proposed Class 6 building is 182.4m<sup>2</sup> which we understand is within the Class 6 limits.

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

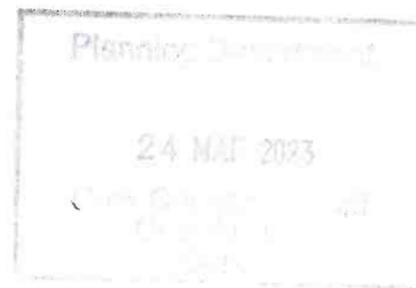
Yours Sincerely,



**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:

✓
✓
✓
✓
✓
✓
✓

### FOR OFFICE USE ONLY

Receipt No.	PL20002236
Cash/Cheque/ Credit Card	Cheque
Date	24/3/23
Declaration Ref. No.	D/226/23

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 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.*



**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>)

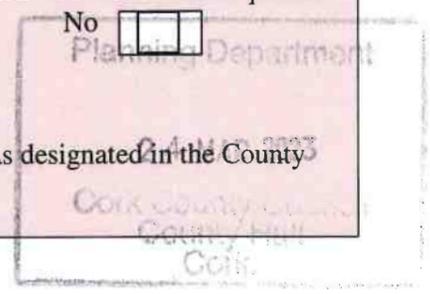
(a) Floor area of existing/proposed structure(s):	Class 6 - Existing 0m <sup>2</sup> , Proposed 182.4m <sup>2</sup>
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964 (including those for which planning permission 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  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)	<i>James O'Mahony</i> <i>Mary O'Mahony</i>
Date	

**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](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:**

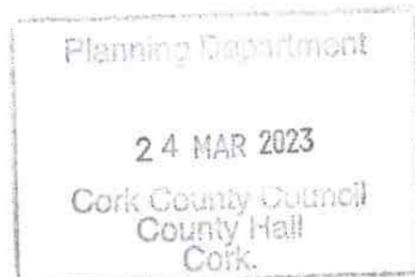
The application must be accompanied by the required fee of €80  
The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.  
Sufficient information should be submitted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

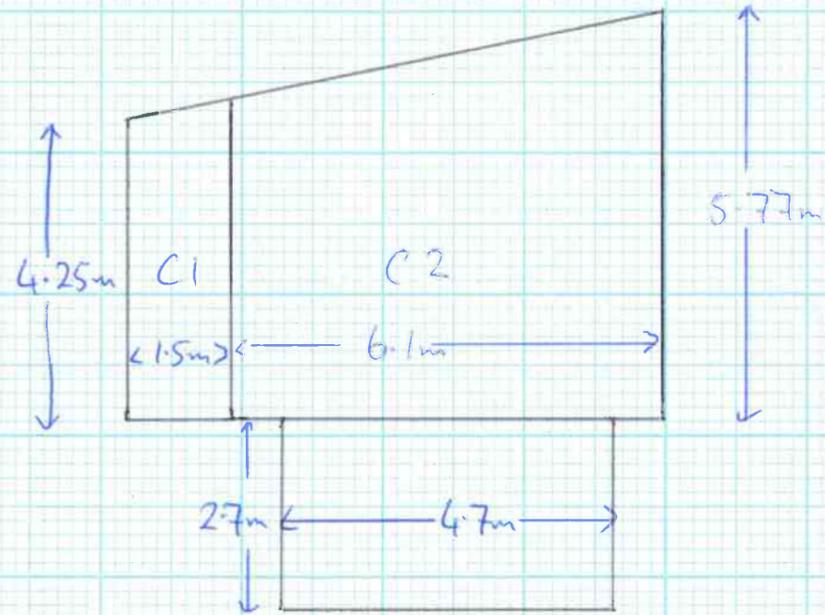
Signed (Applicant or Agent as appropriate)	
Date	23-03-2023





Mary & James O'Mahony  
Clashatree, Bandon, Co. Cork.

Scale 1:100



Scale 1:200

Planning Department  
24 MAR 2023  
Cork County Council  
County Hall  
Cork.



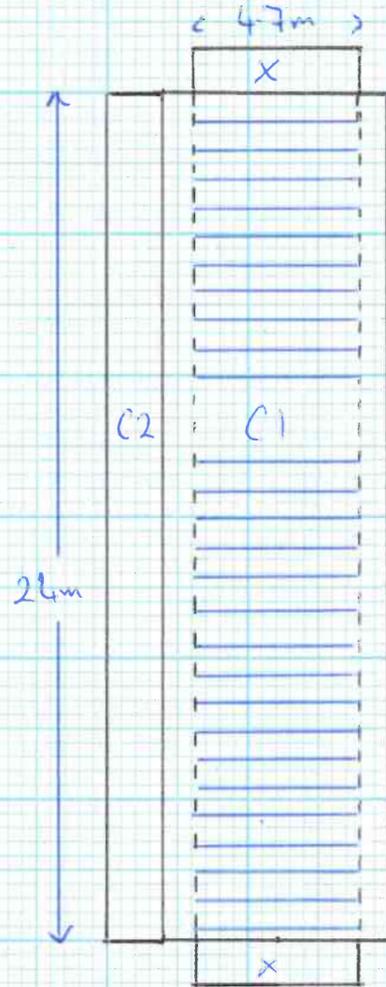
Side elevation

Mary & James O'Mahony, Clashafree, Bandon, Co. Cork.  
Clashafree, Bandon, Co. Cork.

23/3/23

### Floor Plan

Scale 1:200



4.7m x 26m

C1 = Covered Slatted House

C2 = Covered Feed Passage

X = External Agitation Pans



Mary & James D' Maloney  
Clasha free, Bandon, Co. Cork.

23/3/23

A

Site layout

B

C1



Scale 1:500

24 MAR 2023  
County Council  
County Hall  
Cork



# Planning Pack Map

**CENTRE COORDINATES:**  
ITM 551615,555390

**PUBLISHED:** 02/03/2023  
**ORDER NO.:** 50320822\_1

**MAP SERIES:** 1:2,500  
1:5,000  
**MAP SHEETS:** 6577-D  
6578

 = Farm Boundary

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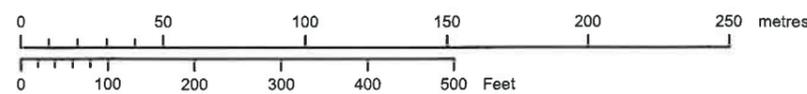
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## LEGEND:

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



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

**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'

