# Comhairle Contae Chorcaí Cork County Council

Nicholas Forde, c/o O' Callaghan Engineering & Design Ltd., Ballynona North, Dungourney, 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



8th May, 2023

REF:

D/231/23

LOCATION:

Ballynanelagh, Rathcormac, Co. Cork.

RE:

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

Dear Sir,

On the basis of the plans and information submitted by you on the 12<sup>th</sup> April, 2023 the Planning Authority having considered whether the construction of a machinery shed/hay straw store at **Ballynanelagh**, **Rathcormac**, **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, 3 and 4 of the Planning and Development Act (2000, as amended)
- Class 9 of Schedule 2 Part 3, of the Planning and Development Regulations (2001, as amended)
- The particulars received by the Planning Authority on 12<sup>th</sup> April 2023

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

The construction of a machinery shed/hay straw store at Ballynanelagh, Rathcormac, Co. Cork, is **development** and is **exempted development**.

Please be advised that:

- In accordance with Condition No. 5 of Class 9, Schedule 2, Part 3, no such structure shall be situated within 100m of any house (other than the house of the person providing the structure), save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
- The housing of livestock within the shed is not permitted.





This exemption does NOT itself empower a person to carry out a development unless that person is legally entitled to do so.

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

Yours faithfully,

KEVIN O'REGAN,

SENIOR EXECUTIVE OFFICER,

PLANNING DEPARTMENT.

### SECTION 5 DECLARATION – PLANNER'S REPORT

File Reference: D/231/23

**Description:** Construction of a machinery shed / hay straw store

**Applicant:** Nicholas Forde

**Location:** Ballynanelagh, Rathcormac, Co. Cork

**Date:** 08/05/2023

### SUMMARY OF RECOMMENDATION

Is Development and Is Exempted Development

### **PURPOSE OF REPORT**

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the 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.

### SITE LOCATION

Ballynanelagh, Rathcormac, Co. Cork

### SUBJECT DEVELOPMENT

Construction of a machinery shed / hay straw store.

### **PLANNING HISTORY**

**Application Site** 

None

### **Adjoining Site**

23/4521	Maria Barry	Permission to construct a dwelling	Due 16/05/23
07/9694	Donal Pyne	Dwellinghouse, detached garage and stable block.	Grant
12/6411	Donal Pyne	Extension of Duration of 07/9694	Grant

### **LEGISLATIVE CONTEXT**

Planning & Development Act, 2000 (as amended)

Section 2 "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) "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 the structures or other land."

Schedule 2, Part 3 Exempted Development – Rural

Column 1	Column 2
Description of Development	Conditions and Limitations
Agricultural Structures	
CLASS 9 Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300sqm.	<ol> <li>No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.</li> <li>The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100sqm of that complex shall not exceed 900sqm gross floor space in aggregate.</li> <li>No such structure shall be situated within 10m of any public road.</li> <li>No such structure within 100m of any public road shall exceed 8m in height.</li> <li>No such structure shall be situated within 100m of any house (other than the house of</li> </ol>
	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.
	<ol><li>No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</li></ol>

### **SUB-THRESHOLD EIAR**

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that an EIS is not required to be submitted.

#### APPROPRIATE ASSESSMENT

The relevant European sites are the Blackwater River SAC. Having regard to its nature of the development which is for storage purposes only as well as the scale and location it is considered that the proposed development would not affect the integrity of the site referred to. Accordingly it is considered that a Natura impact statement for the purposes of Article 6 of the Habitats Directive is not required to be submitted.

### **ASSESSMENT**

The question before the Planning Authority can be reasonably construed as whether the construction of a shed for the storage of machinery, hay and straw is or is not development and is or is not exempted development.

The application is accompanied by a site location map, layout plan and plans and elevations of the structure in question. The site forms part of a larger agricultural field in an elevated area. The site does not benefit from any natural screening and is highly visible from the public road with extensive views to the north. I note there is an existing cattle-crush to the east of the proposed shed adjacent the public road.

Part 3 of Schedule 2 provides for Agricultural Structures and Class 9 refers to Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300sqm.

- It is stated by the applicant that the structure will be used as a machinery shed and to store hay and straw. Therefore the structure is not a type specified in Class 6, 7 or 8 of Part 3, Schedule 2;
- The gross floor space of the structure is 132.67sqm;
- The structure is situated 15m from the public road.;
- The structure is stated as 5.225m in height;
- Roof cladding as per Dept. of Ag. Food & Forestry Spec, S102 is proposed.
- Aside from the cattle-crush, there are no other farm structures or farm yard at this location or within the overall 10.93ha landholding.
- The nearest existing dwelling is approximately 380m from the site.

I note there is a current planning application on the adjoining site to the west, Ref. 23/4521, which is approximately 40m from the proposed development. There is planning history on the site dating back to 2007 which expired in 2018. The current planning application is due for decision on 16<sup>th</sup> May 2023.

Based on the plans and particulars submitted and the current site circumstances, the proposed development complies with the terms and conditions of Class 9 of Schedule 2 and is therefore considered to be exempted development.

Condition no. 5 of Class 9 requires that *No such structure shall be situated 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.* I note the applicant on the adjoining site, which is within 100m of the structure, is not the person providing the structure. Therefore should planning permission be granted for a house on the adjoining site and the permission implemented prior to construction of the agricultural

structure, the person providing the agricultural structure will need consent in writing from the owner of the dwelling within 100m of the structure in order to comply with Condition No. 5 of Class 9.

I note the report of the Environment Officer. There is no objection from an Environment perspective subject to compliance with Condition No. 5 of Class 9 as outlined above and subject to the structure not being used for the housing of livestock.

### **RECOMMENDATION**

Having regard to:

- the particulars received by the Planning Authority on 12/04/2023
- Section 2 and Section 3(1) of the Planning and Development Act 2000 (as amended)
- Class 9 of Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended)

it is considered that, the construction of an agricultural structure for the storage of machinery, hay and straw at this location **Is Development and Is Exempted Development**.

**NOTE:** The applicant should note:

- In accordance with Condition No. 5 of Class 9, Schedule 2, Part 3, no such structure shall be situated within 100m of any house (other than the house of the person providing the structure), <u>save with the consent in writing of the owner</u> and, as may be appropriate, the occupier or person in charge thereof.
- The housing of livestock within the shed is not permitted.

Louise Ahern Executive Planner 08/05/2023



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

07 / 04 / 2023

Re: Planning Application for Nicholas Forde, at Ballynanelagh, Rathcormac, Co. Cork.

Planning Department

1 2 APR 2023

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Cork

Dear Sir / Madam,

Please find enclosed the following: -

- 1. 4 no. copies of Section 5 Declaration of Exemption Application Form.
- 2. 4 no. copies of 6" O.S. Map.
- 3. 4 no. copies of 25" O.S. Map.
- 4. 4 no. copies of Site Layout Plan.
- 5. 4 no. copies of Scaled Drawings of Development.
- 6. €80 Application fee.

I trust that this is to your satisfaction but should you have any questions or queries, please contact the undersigned.

Yours sincerely,

Declan O'Callaghan, BE (Civil), MIEI

Ballynona North, Dungourney, Co.Cork

Directors: D.O'Callaghan, A.Hynes O'Callaghan Engineering & Deisgn Ltd. T/A O'Callaghan Engineering & Deisgn Company Registration Number: 426966

Tel: 021-4668365 / 086-8531270 Email: declarocallaghan@gmail.com VAT No: IE 9579223 G



# CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

### APPLICANT CHECKLIST

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:

### (Please tick $\sqrt{\ }$ )

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### FOR OFFICE USE ONLY

Receipt No.	PC2000 2245
Cash/Cheque/ Credit Card	cheque
Date	.2/4/23
Declaration Ref. No.	3/23/23

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.

12 APR 2023

### 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.

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	NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QU	ESTION A - CONTACT DETAILS)
chol	las Forde	
-		
•	POSTAL ADDRESS OF LAND OR STRUCTURE FOR WEEKEMPTION IS SOUGHT:	HICH DECLARATION OF
llyn	nanelagh, Rathcormac, Co. Cork.	
-		
3.	QUESTION/DECLARATION DETAILS:	
ease	e state the specific question for which a Declaration of Exemption is sought Only works listed and described under this section will be assessed under the Se	ection 5 Declaration of Exemption
	ruction of a machinery shed / hay straw store.	
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4. APPLICATION DETAILS: Answer the following if applicable. Note: Floorwalls and should be indicated in square metres	or areas are measured from the inside of the external $(m^2)$
(a) Floor area of existing/proposed structure(s):	Straw Bedded Shed - 130 m2
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 III  If yes, please provide floor areas (m²) and previous planning reference(s) where applicable:  N/A
(c) If a change of use of land and/or building(s) is proposed, please state the following:	
Existing/previous use	Proposed use N/A
(d) Are you aware of any enforcement proceedings connected to this site?	Yes No V  If yes, please state relevant reference number(s):
5. LEGAL INTEREST OF APPLICANT IN The Please tick appropriate box to show applicant's legal interest in the land or structure:	THE LAND/STRUCTURE:  A. Owner B. Other
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):	Planning Usuardment  12 APR 2023  Canadace
6. PROTECTED STRUCTURE DETAILS / A  Is this a Protected Structure/Proposed Protected Str  Structure: Yes No	ARCHITECTURAL CONSERVATION AREA:  ucture or within the curtilage of a Protected
If yes, has a Declaration under Section 57 of the Planor issued for the property by the Planning Authority  If yes, please state relevant reference No	
Is this site located within an Architectural Conserva Development Plan? Yes	ation Area (ACA), as designated in the County No
7. APPROPRIATE ASSESSMENT: Would the proposed development require an appropriate a significant effect on the integrity of a Europ	ean site (SAC, SPA etc)? Yes No

### 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 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)	Michalao Forde
Date	07/04/2023

### 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	Nicholas Forde
Date	07/04/2023

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planning info@corkcoco.ie or by contacting the Planning Department. Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcorkplanninginfo@corkcoce.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 w with a legal obligation or for the performance of a task carried out in the public in

Please note that all information / supporting documentation sub view at the Planning Authority offices.

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ted will be available pub	licly to
4.6	3
12 APR 2023	4
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### **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 a, 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.

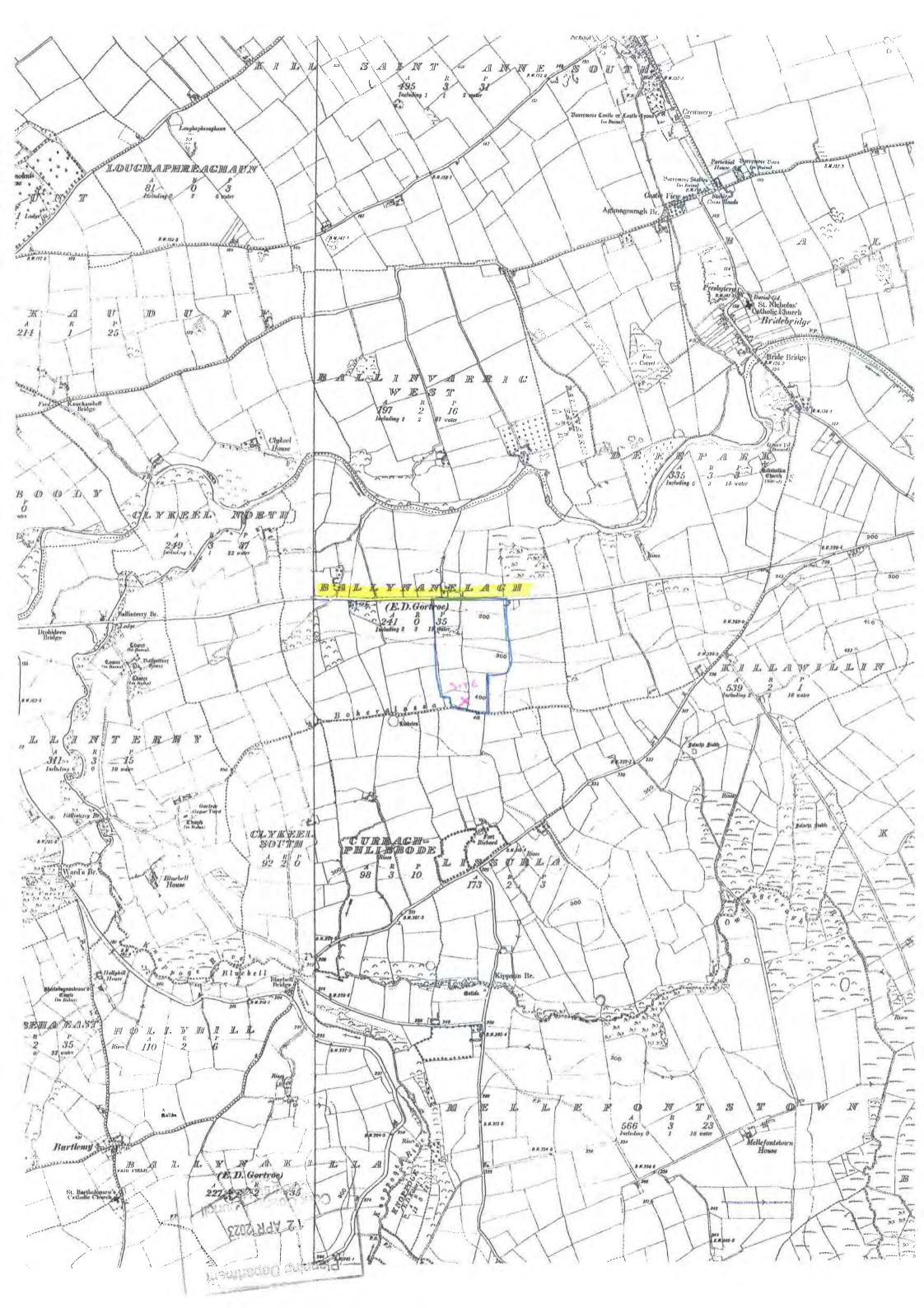
9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the <a href="Planning and Development Acts 2000">Planning and Development Acts 2000</a>, as amended and the Regulations made thereunder:

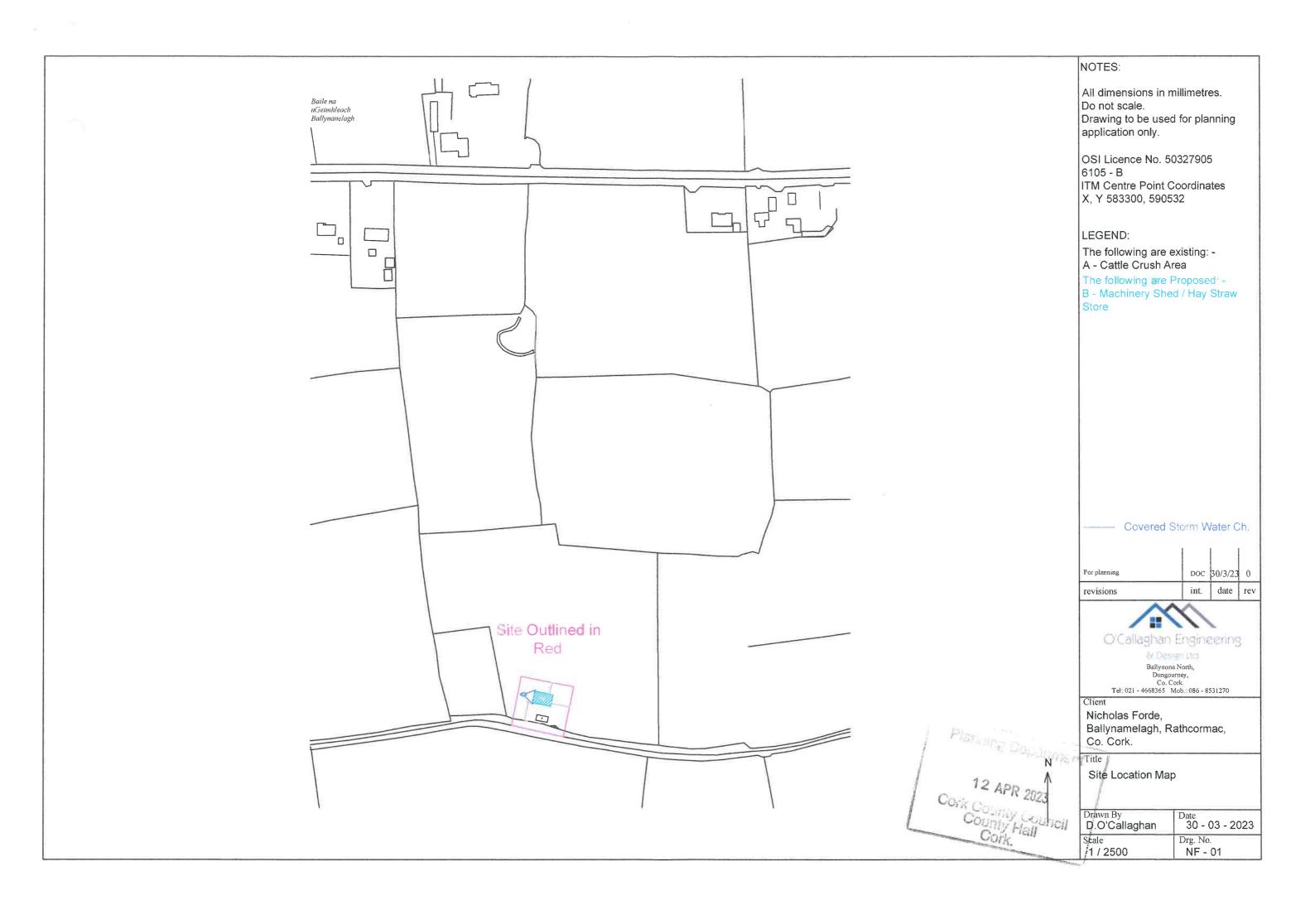
Signed (Applicant or Agent as appropriate)	Nicholas Forde
Date	07/04/2023

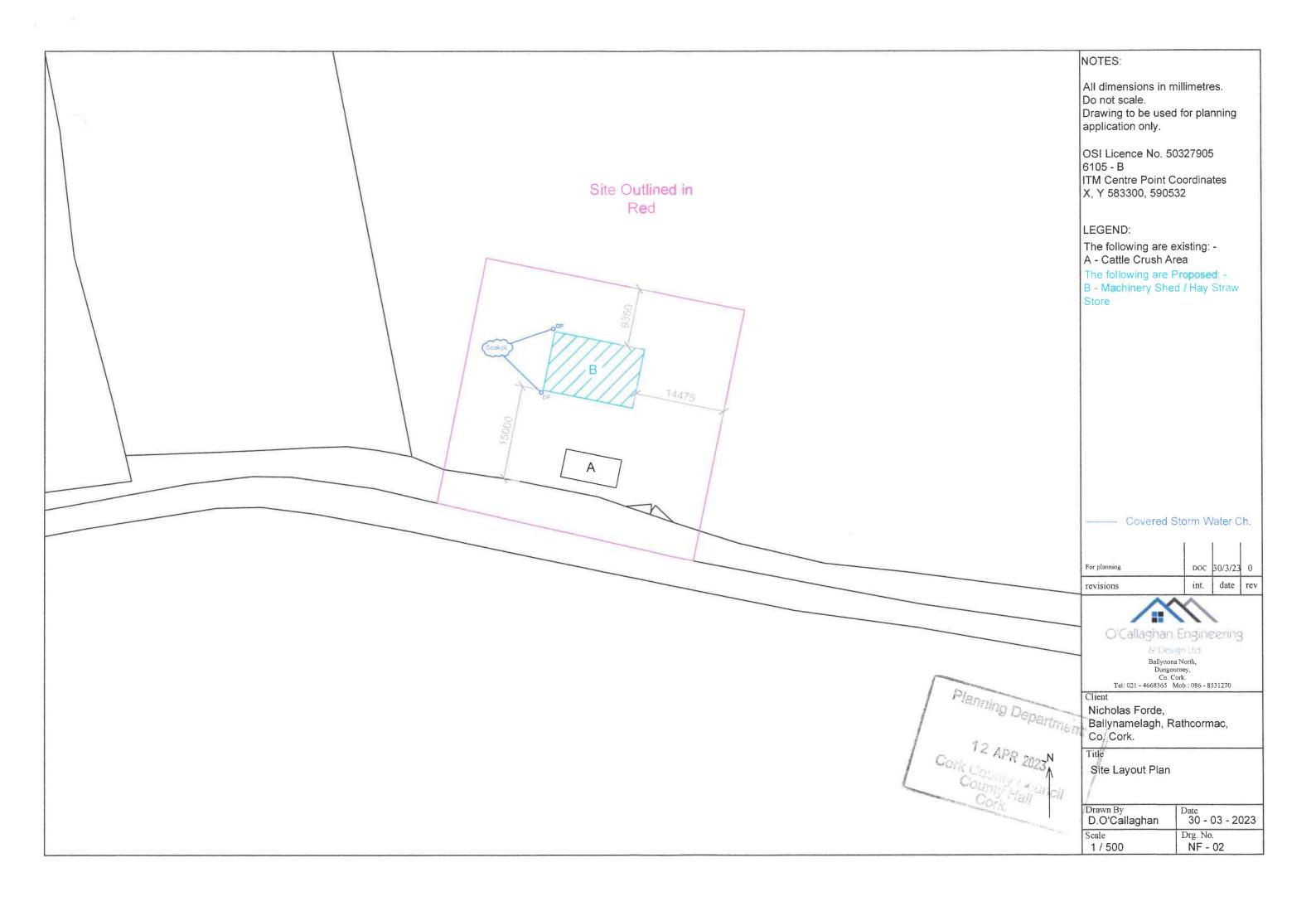
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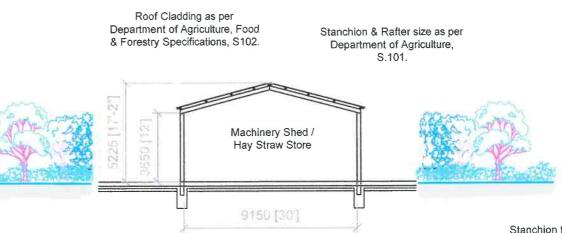






# Machinery Shed / Hay Straw Store 9150 [30]

PLAN OF PROPOSED MACHINERY SHED / HAY STRAW STORE



**SECTION A - A THROUGH PROPOSED** MACHINERY SHED / HAY STRAW STORE

Stanchion to be built into a concrete pier 600mm x 600mm. Stanchion to be inserted into the pier a minimum of 600mm.

For planning DOC 30/3/23 int. date revisions



Ballynona North,

Dungourney, Co. Cork. Tel: 021 - 4668365 Mob. 086 - 8531270

NOTES:

Do not scale.

application only.

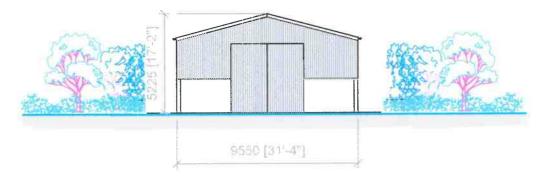
All dimensions in millimetres.

Drawing to be used for planning

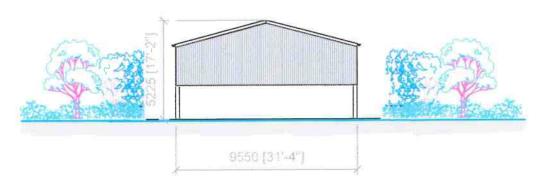
Nicholas Forde, Planning Departm Ballynamelagh, Rathcormac, Co. Cork.

Plan & Section of Proposed Machinery Shed / Hay Straw

Drawn By D.O'Callaghan	Date 30 - 03 - 2023
Scale 1 / 200	Drg. No. NF - 03



## FRONT ELEVATION OF PROPOSED MACHINERY SHED / HAY STRAW STORE



REAR ELEVATION OF PROPOSED MACHINERY SHED / HAY STRAW STORE

NOTES:

All dimensions in millimetres.
Do not scale.
Drawing to be used for planning application only.

For planning	DOC	30/3/23	0
revisions	int.	date	rev



Ballynona North,
Dungourney,
Co. Cork.
Tel: 021 - 4668365 Mob.: 086 - 8531270

Client

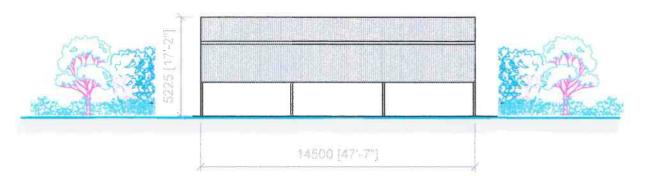
Nicholas Forde, Ballynamelagh, Rathcormac, Co. Cork.

Title

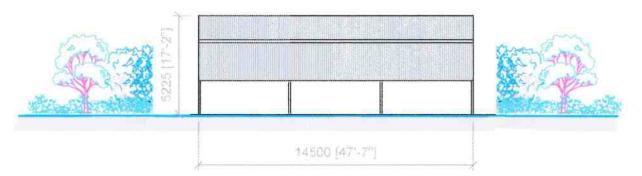
Planting Live

Front & Rear Elevation of
Proposed Machinery Shed / Hay
Straw Store.

	Straw Store.		
	Drawn By D.O'Callaghan	Date 30 - 03 - 2023	
15000	Scale 1/200	Drg. No. NF - 04	



## SIDE ELEVATION OF PROPOSED MACHINERY SHED / HAY STRAW STORE



SIDE ELEVATION OF PROPOSED MACHINERY SHED / HAY STRAW STORE

NOTES:

All dimensions in millimetres.
Do not scale.
Drawing to be used for planning application only.

For planning DOC 30/3/23 0
revisions int. date rev



Client

Nicholas Forde, Ballynamelagh, Rathcormac, Co. Cork.

Title

Side Elevation of Proposed Machinery Shed / Hay Straw Store.

 Drawn By
 Date

 D.O'Callaghan
 30 - 03 - 2023

 Scale
 Drg. No.

 1 / 200
 NF - 05

Planning Department

12 APR 2023

Cork Corrections

Course of the corrections