

Comhairle Contae Chorcaí Cork County Council

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

6th June 2023

REF: D/241/23
LOCATION: Clashfree, Bandon, Co. Cork.

**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 12th May 2023 the Planning Authority, having considered the question whether or not the construction of an animal housing shed with 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 exempted development**.

Reason for Decision

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

- Sections 3(1) and 4 of the Planning and Development Act, 2000, as amended
- Class 6 of Schedule 2 Part 3 of the Planning and Development Regulations 2001 as amended
- The particulars received by the Planning Authority on 13th May 2023

And Whereas Cork County Council has concluded that –

The construction of an animal housing shed with slurry storage at **Clashfree, Bandon, 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,



**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/241/23

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

Site Location: Clashafree , Bandon, Co. Cork

Proposed Development: i) Is the construction of a 182.4m² Class 6 Animal Housing structure exempted development?

Proposal /Context

The applicant is seeking a determination by the planning authority as to whether or not the construction of a Animal housing shed with slurry storage (class 6) is exempted development under the Planning and Development Regulations (2001, as amended).



Planning History

None associated with the Farmhouse and complex.

Flooding and Appropriate Assessment

Site is not in a flood risk zone

The site is not located within a screening zone associated with a Natura 2000 sites. Having regard to the scale of the project along with the conservation objectives for the site and the lack of direct or indirect connection between the proposal and any SAC & SPA, it is reasonable to conclude that the proposed development will not have significant impact on any Natura 2000 site.

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.

Of particular relevance to this application is **Schedule 2 Part 3** of the **Planning and Development Regulations (2001 as amended)**.

Class 6 of said Schedule considers

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 be exempted development subject to a number of conditions and limitations.

Conditions and limitations

- 1 No such structure shall be used for any purpose other than the purpose of agriculture.
2. The gross floor space of such structure 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.
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 the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
5. No such structure within 100 metres of any public road shall exceed 8 metres in height.
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.

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

New cattle shed 130m from Redundant record SMR C0110-016. No issue

Article 9 of said Regulations lists a series of restrictions on exemptions which includes

(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, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line 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,
- (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 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, save any excavation, pursuant to and in accordance with a licence granted under [section 26](#) of the [National Monuments Act, 1930](#) (No. 2 of 1930),
- (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 an 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 the 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 be development:—
- (i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or
 - (ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or
 - (iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or
 - (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,
- (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.

- (2) Sub-article (1)(a)(vi) shall not apply where the development consists of the construction by any electricity undertaking of an overhead line or cable not exceeding 100 metres in length for the purpose of conducting electricity from a distribution or transmission line to any premises.

Assessment

The proposal is for the construction of a new Slatted house (146m²) and a covered feed passage(36m²) total 182.4m² structure within an existing farm complex. There are two existing Class 9 structures on the site with a total area of 154.6m². The total floor area of all Class 6 structures within the farm complex will be 182.4m² which is below the 300m² gross floor space aggregate and therefore the proposed development is considered to comply with Class 6 exempted development. The Environmental officer has no objection to the proposal.

Conclusion

Having considered the information received and the provisions of both the Planning and Development Act and the Planning and Development Regulations the proposed slatted shed at Clashafree, Bandon constitutes "development" but is considered exempted development having regard to the Class 6 exempted development.

John Redmond
Area Planner
02/06/2023

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



11 May 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 0m². Existing shed 'B' will change from Class 6 to Class 9 (store) as it is not fit for purpose as a Class 6 shed, and is no longer being used as such.

Total for proposed Class 6 building is 182.4m² which we understand is within the Class 6 limits.

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

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

Yours Sincerely,

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

Phone: 023 8849000

Mobile: 087 2804202



CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

(Please tick ✓)

- 4 No. Copies of Application Form:**
- 1 No. Copy of Contact Details:**
- 4 No. Copies 6" O.S. Maps:**
- 4 No. Copies 25" O.S. Maps:**
- 4 No. Copies of Site Layout Plan:**
- 4 No. Copies Scaled Drawings of Development:**
- €80 Application Fee:**

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



FOR OFFICE USE ONLY

Receipt No.	P12-0002253
Cash/Cheque/ Credit Card	Cheque
Date	12/05/2023
Declaration Ref. No.	D/241/23

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.

1. NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A – CONTACT DETAILS)

Mary & James O'Mahony

2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION OF EXEMPTION IS SOUGHT:

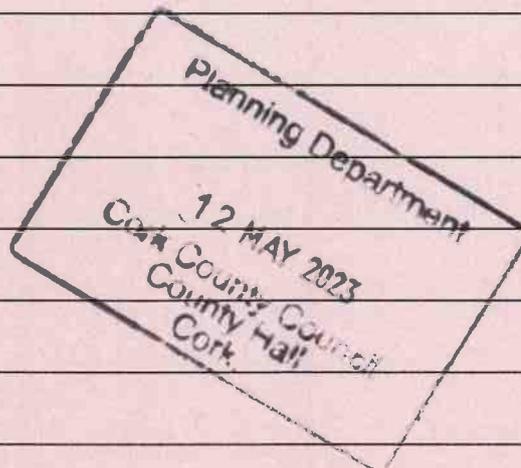
Clashfree
Bandon
Co. Cork

3. QUESTION/DECLARATION DETAILS:

Please state the specific question for which a Declaration of Exemption is sought

Note: Only works listed and described under this section will be assessed under the Section 5 Declaration of Exemption

C) Animal housing to include slurry storage

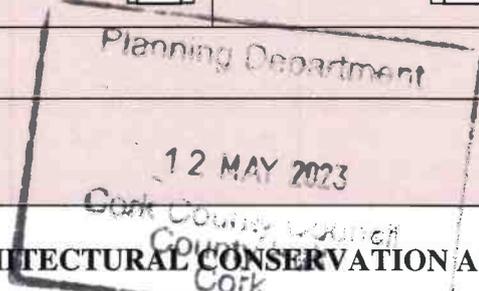


4. APPLICATION DETAILS:

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square metres (m²)

(a) Floor area of existing/proposed structure(s):	Class 6 - Existing 0m ² , Proposed 182.4m ²
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 st October, 1964 (including those for which planning permission has been obtained):	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas (m ²) and previous planning reference(s) where applicable:
(c) If a change of use of land and/or building(s) is proposed, please state the following: Existing/previous use N/A	Proposed use N/A
(d) Are you aware of any enforcement proceedings connected to this site?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please state relevant reference number(s):

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

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

6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

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

7. APPROPRIATE ASSESSMENT:

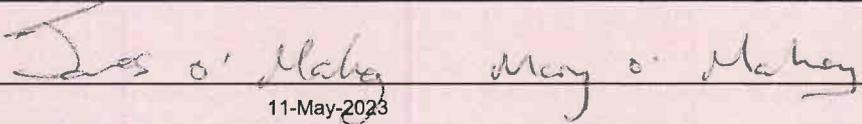
Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes No

8. DATA PROTECTION DECLARATION:

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

Processing of your Declaration of Exemption application by the Planning Authority

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

Signed (By Applicant Only)	
Date	11-May-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	
Date	

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planninginfo@corkcoco.ie or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcorkplanninginfo@corkcoco.ie However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.

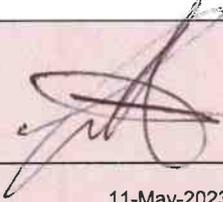
ADVISORY NOTES:

The application must be accompanied by the required fee of €80
 The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.
 Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.
 The application should be sent to the following address:
 The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- The Planning Authority may request other person(s), other than the applicant; to submit information on the question which has arisen and on which the Declaration of Exemption is sought.
- Any person issued with a Declaration of Exemption may on payment to An Bord Pleanála refer a Declaration of Exemption for review by the Board within 4 weeks of the date of the issuing of the Declaration of Exemption decision.
- In the event that no Declaration of Exemption is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a Declaration of Exemption was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations, 2001, as amended.

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

<i>Signed (Applicant or Agent as appropriate)</i>	
Date	11-May-2023



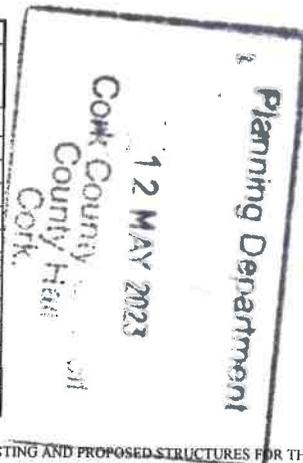
Farm Structures List. -

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

Class 6 ANIMAL HOUSING								Class 8 DAIRY (ETC.); SILOS; SOILED YARDS						Class 9 STORAGE BUILDINGS; CLEAN YARDS					
ID No.	Description of Structure	Animal Type	Animal No.	Discharge to: (ID No.)	Length(m)	Width(m)	Area(m ²)	ID No.	Description of Structure	Discharge to: (ID No.)	Length(m)	Width(m)	Area(m ²)	ID No.	Description of Structure	Length(m)	Width(m)	Area(m ²)	
A. EXISTING STRUCTURES IN FARMYARDS								A. EXISTING STRUCTURES IN FARMYARDS						A. EXISTING STRUCTURES IN FARMYARDS					
							0.0							0	A	Feed Store	8.0	4.0	32.0
															B	Store	18.3	6.7	122.6
																		0.0	
																		0.0	
Total:								Total:						Total:					
														154.6					

B. PROPOSED NEW STRUCTURES								B. PROPOSED NEW STRUCTURES						B. PROPOSED NEW STRUCTURES					
C1	Covered Slatted House				24.0	6.1	146.4											0.0	
C2	Covered Feed Passage				24.0	1.5	36.0											0	
																		0.00	
																		0	
																		0.00	
																		0.00	
Total:								Total:						Total:					
182.4								0.00						154.6					

C. Existing Slurry and Soiled Water Stores.							
ID No.	Description (open, slatted, precast, etc)	Effluent type stored	Length(m)	Width(m)	Depth(m)	Vol.(m ³)	
						0.00	
						0.00	
						0.00	
						0.00	
						0.00	
						0.00	
						0.00	
Total:							0.00



D. Proposed Slurry and Soiled Water Stores.							
ID No.	Description (open, slatted, precast, etc)	Effluent type stored	Length (m)	Width(m)	Depth(m)	Gross Vol.(m ³)	
C1	Covered slatted tank	Slurry	26.40	4.70	2.70	335.02	
Total:							335.02

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

FARM STRUCTURES RECORD

PREPARED BY:

Rickard Roycroft, BSc. Agri Bus. (Hons)

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

COMPILED AND PUBLISHED BY:
Ordnance Survey Ireland,
Phoenix Park,
Dublin 8,
Ireland.

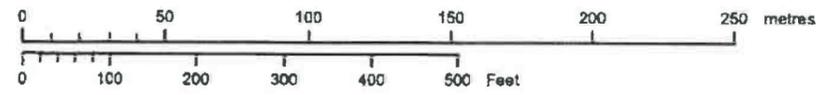
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Planning Department
12 MAY 2023
Cúirt Sheiréacht Ordánais Éireann, 2023
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County Wick
www.osi.ie/copyright



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'



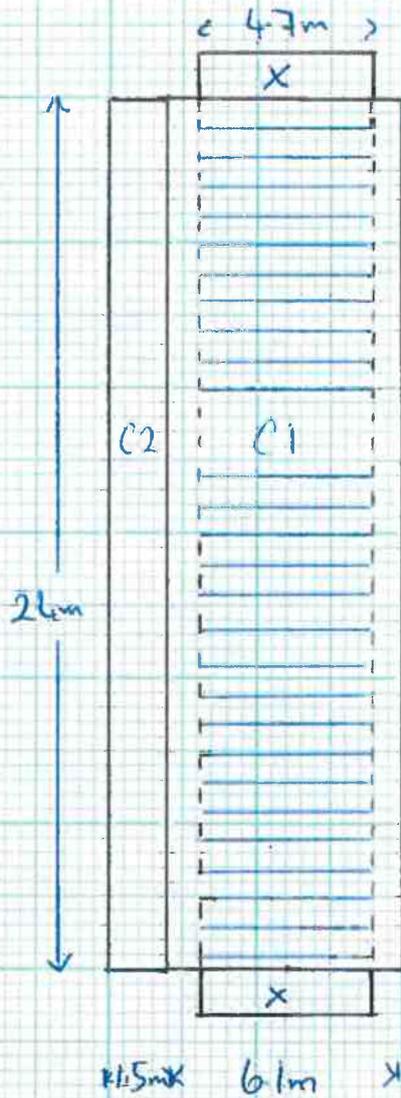
LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'

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

23/3/23

Floor Plan

Scale 1:200



C1 = Covered Slatted House

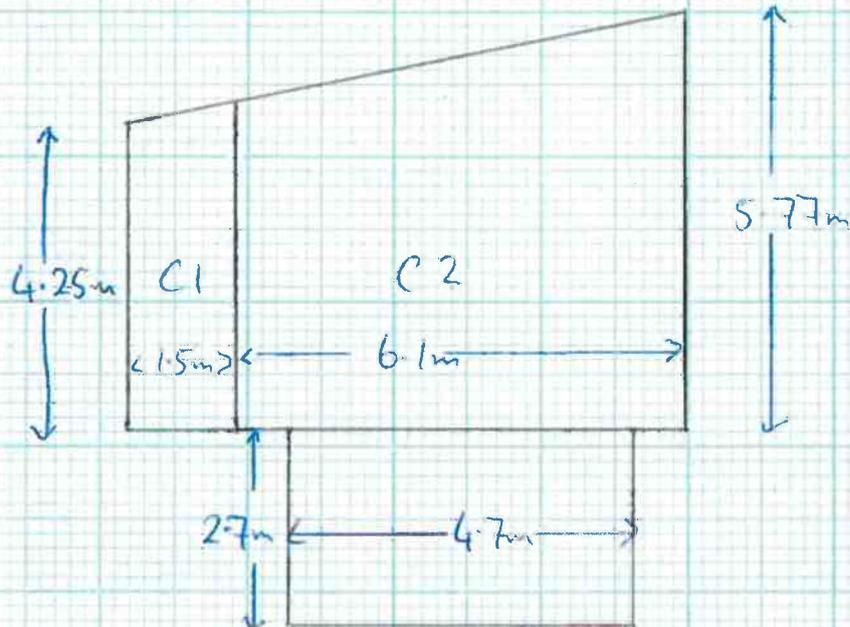
C2 = Covered Feed Passage

X = External Agitation Pans

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

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

Scale 1:100



Scale 1:200



Side elevation

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

Mary & James D' Maloney
Clashafree, Bandon, Co. Cork.

23/3/23

A

Site layout

B

C1

N
→

Scale 1:500

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