

Comhairle Contae Chorcaí Cork County Council

William Carroll,
Springfort,
Charleville,
Co. Cork.

Pleanáil agus Forbairt,
Halla an Chontae,
Bóthar Charraig Ruacháin,
Corcaigh T12 R2NC.
Fón: (021) 4276891
R-phost: planninginfo@corkcoco.ie
Suíomh Gréasáin: www.corkcoco.ie
Planning & Development,
County Hall,
Carrigrohane Road, Cork T12 R2NC.
Tel (021) 4276891
Email: planninginfo@corkcoco.ie
Web: www.corkcoco.ie



14th December 2023

REF: D/306/23
LOCATION: Shandrum & Liscullane, Charleville, Co. Cork.

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

Dear Sir,

On the basis of the information submitted by you on 17th November 2023 the Planning Authority, having considered the question whether or not the construction of an internal farm roadway at **Shandrum & Liscullane, Charleville, 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:

- Sections 2, 3 and 4 of the Planning and Development Act, 2000 (as amended),
- Articles 6 and 9 of the Planning and Development Regulations, 2001 (as amended),
- Class 13 of Part 1 and Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended),
- The Planning History on the site, and
- The particulars received by the Planning Authority on 17th November 2023

And Whereas Cork County Council has concluded that –

The proposed construction of an internal farm roadway at **Shandrum & Liscullane, Charleville, Co. Cork** constitutes **development that is not exempted development**.

Please note the construction of the said new farm access track on private land is a new access track or 'way' and is not the repair/improvement of an established track or way. Accordingly, it would not fall within Class 13 or any other Class.

You are advised that the County Archaeologist has examined this proposal and advises that in the event of a planning application being made, then an Archaeological Impact Assessment by a qualified Archaeologist should be undertaken and included with the submitted documentation. The latter would also be required if the proposal is to lay stone on topsoil without excavating.



Furthermore, be advised that the County Ecologist has also examined this proposal and is satisfied that there is no hydrological or any other Ecological connectivity linking this site to any Natura 2000 site.

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>

PLANNER'S REPORT – Ref. D/306/23

Application Type: Section 5

Description: Proposed Farm Roadway

Location: Shandrum + Liscullane, Charleville.

Applicant: William Carroll

1. Requirements for a Section 5 Declaration Application

Section 5(1) of the Planning and Development Act, 2000 (as amended) states:

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

2. The question before the planning authority

The question is whether the following is or is not development and is nor is not exempted development, can reasonably considered to be as follows:

'Is the construction of an internal Farm Roadway exempted development?'

3. Site Location and Description

The subject lands pertain to a Land-Holding that straddles the Townlands of Shandrum + Liscullane, Charleville, which is located on the Western side of Charleville, and some 300 m. from the Settlement Boundary.

There is a vernacular style 1.5 storey dwelling and outbuildings on site, which is sited c.500m from the R515. To the South-West, is an existing trackway, which does not appear to benefit from a Permission, and is in place with some time, which leads to a Farm Complex within the overall Land-Holding. It would appear, although not stated, that it is the intention of the Applicant to link the dwelling and Farm Complex.

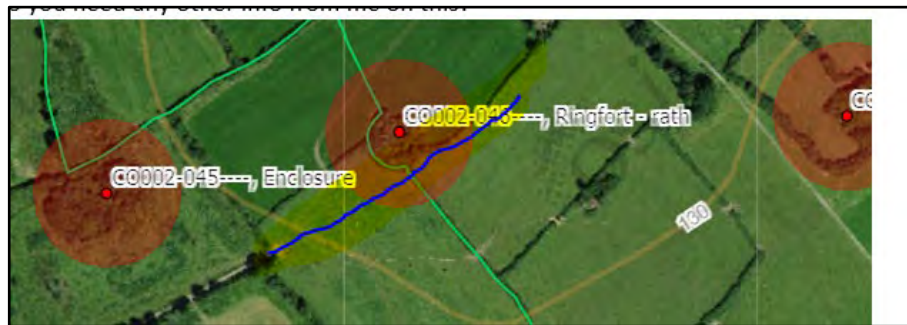


Figure 1: Extract from Planning Enquiry with satellite imagery, with approximate location of proposes roadway highlighted.

The surrounding landscapes rise in a Northerly direction from the public road. The site benefits from natural screening.

The immediate lands of the proposed development are in a Zone of Archaeological Potential - immediately to the North of the proposed internal Roadway, is a CO002-046 Ringfort RMP - and nearby to the North-West is a CO002-045 Enclosure RMP.

Figure 2: Nearby Zone of Archaeological Potential (ref. County Archaeologist).



The lands are located outside of areas identified as being at risk of flooding, and it is located outside of the Screening Zone for a Natura 2000 site.

4. Relevant Planning Legislation and Regulations

Planning and Development Act 2000 (as amended)

Planning & Development Act, 2000 - 2012

Section 2 (1) of the 2000 Planning and Development Act states as follows:-

“In this Act, except where the context otherwise requires – ‘development’ has the meaning assigned to it by Section 3 ...”

In Section 2 (1) of the Act “works” are interpreted as including “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”.

In Section 2 (1) of the Act “protected structure” means—

(a) a structure, or

(b) a specified part of a structure,

which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

Section 3 (1) of the 2000 Planning and Development Act states as follows:-

“In this Act, ‘development’ means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land.”

Section 4 of the Planning and Development Act refers to ‘Exempted Development’ and Subsection (1) sets out categories of development for the purposes of this Act. Of particular relevance is section 4(1)(a) which provides as follows;

(a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

(b) development (other than where the development consists of provision of access to a public road) consisting of the construction, maintenance or improvement of a road (other than a public road) or works ancillary to such road development, where the road serves forests and woodlands;

Section 4 (2) of the Act provides that the Minister, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations, 2001.

Planning and Development Regulations, 2001, as amended

Article 6(1) defines the scope of exempted development for the purposes of the Act as referred in Section 4(2) of the Act. The article refers to Schedule 2 forming part of the Regulations. Article 6(1) is subject to provisions of Article 9.

Article 9(1) sets out circumstances in which exempted development defined by Article 6 Second Schedule shall not be exempted development, including if the carrying out of 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,

Schedule 2, Part 1 - Exempted Development — General sets out the following:

“Class 13

The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.

Condition and Limitation

The width of any such private footpath or paving shall not exceed 3 metres’.

5. Relevant Planning History

5.1 Planning History

Ref. 18/04542

Declan Carroll, Rebecca White

Permission Granted for the restoration of existing dwellinghouse including alterations to facades, raising of roof level on first floor and construction of one and a half storey extension to front, waste water treatment system, percolation area and all associated site works.



Figure 3: Extract from Planning Enquiry, with approximate location of proposed roadway highlighted.

6. Planning Assessment

Is or is not development?

The first issue for consideration is whether or not the construction of internal Farm Roadway is 'development' which is defined in Section 3(1) and 'works' is defined in Section 2(1) of the Act. ***It is considered that the development as described by the Referrer clearly falls within the definition of 'development'.***

Is or is not exempted development?

Development can be exempted from the requirement for planning permission by either Section 4 of the Act, or Article 6 of the Regulations.

In this case the said development does not come within the scope of any class specified in any part of Schedule 2, having particular regard for:

Part 1: Exempted Development – General,
Part 3: Exempted Development – Rural, of the Planning & Development Regulations:

7. Recommendation and Conclusion

It is considered that the proposed construction of an internal Farm Roadway is works and amounts to development.

The issue to be considered is whether the development is exempted development or not.

The new Roadway is proposed for a length of 225.12 m. within the Farm and through a field parcel with a Zone of Archaeological Potential. The new roadway appears to be connecting to an existing trackway to a Farm Complex within the Land-Holding, and would be a new extension of the latter (which may not be authorised).

Whilst regard has been had for Class 13 of the Planning Regulations, it pertains to the repair or improvement of a '*private street, road or way*', and in this case, the proposed development does not come within the scope of the latter as it is for a proposed farm roadway of a length of 225 m. Neither does it fall within any Class specified in any part of Schedule 2, of the Planning & Development Regulations.

Note 1:

The Cover Letter issuing to the Applicant should state that the above Conclusion i.e. 'is **development** and **is not exempted development**'.

Note 2:

The Applicant should also be advised, that the County Archaeologist has examined this proposal and advises that in the event of a planning application being made, then an Archaeological Impact Assessment by a qualified Archaeologist should be undertaken and included with the submitted documentation. The latter would also be required if the proposal is to lay stone on topsoil without excavating.

Note 3:

The Applicant should further be advised that the County Ecologist has also examined this proposal, and is satisfied that there is no hydrological or any other Ecological connectivity linking this site to any Natura 2000 site.



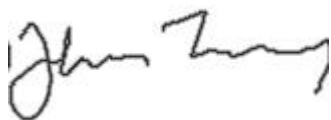
Helen O' Sullivan
Area Planner
13/12/2023

The above report and recommendation is noted.

The said development and works are noted. The construction of the said new farm access track on private land is a new access track or 'way' and is not the repair/improvement of an established track or way. Accordingly, it would not fall within Class 13 or any other Class.

Conclusion

Is Development and Is Not Exempted Development



John Tierney
A/Senior Executive Planner
14/12/2023

Appendix 1 – Engineer’s Comments:

There is no objection to this internal road, construction of the road on top of the existing ground may lead to surface water issues as waters may not longer be able to flow as normal over the ground

However, without a topo survey this is difficult to comment on fully. The proposed road is over 300m from the regional road and would have no impact on this public road

The proposed road does run adjacent to what looks like a ring fort on the images provided

John O’Dell | Executive Engineer | Roads Dept

Cork County Council | Charleville | P56 CD53 | Ireland

Appendix 2 – Archaeologist Comment’s

Given the proximity of the proposed road to the ringfort CO002-046 (even if they are proposing to lay stone on topsoil without excavating), this would still require an Archaeological Impact Assessment by an archaeologist.



Annette Quinn | County Archaeologist | Planning & Development

Cork County Council | County Hall | Cork | T12 R2NC | Ireland

Appendix 3 – Ecology Comment’s

I am not aware of a general exemption under either the act or the regulations for internal farm roads.

As to a de-exemptions under Reg 9(1)(a)(vii)(a), if such as an exemption does apply, I am satisfied that no such de-exemption would apply given the lack of hydrological or any other ecological connectivity linking this site to any Natura site. Furthermore, I am happy that there are no ecological reasons to apply a de-exemption under reg 9(1)(a)(vii). However, I note the proximity of the proposed road to a Rath which is listed on the RMP (CO002-046) and suggest that you refer this S5 to Annette for review. A de-exemption for reasons relating to the proximity of the road to the rath should be considered.

Sharon Casey | Exec. Ecologist | Planning & Development

Cork County Council | County Hall | Cork | T12 R2NC | Ireland



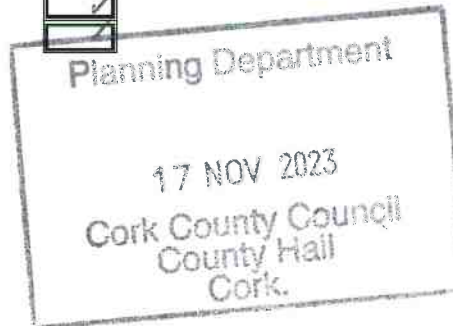
CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

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"/>
<input checked="" type="checkbox"/>
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FOR OFFICE USE ONLY

Receipt No.	P12-0002316
Cash/Cheque/ Credit Card	Cheque
Date	17/11/2023
Declaration Ref. No.	D/306/23

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)

William CARROLL

17 NOV 2023

Cork County Council
County Hall
Cork.

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

SHANDRUM

Liscullane

CHARLEVILLE

x

CHARLEVILLE

Co Cork

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

THE PROPOSED FARM ROADWAY HAS A DISTANCE OF 225.14m

IT IS ALL WITHIN THE FARM HOLDING.

IT DOES NOT TRAVERSE ANY WATERWAY OR WATERCOURSE.

IT IS INTENDED TO LEAVE THE TOP SOIL AND

LAY HARCORE OVER THE 225.14 AT A WIDTH OF 30m.

THERE ARE NO DESIGNATIONS ON THIS LAND.

THE PROPOSED FARM ROADWAY IS OVER 100m FROM A NEIGHBOURING FARM YARD.

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):	
(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 <u>Grassland</u>	Proposed use <u>New Internal Fire Roadway</u> 17 NOV 2023 North County Council County Hall Cork
(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:	NA	
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):	NA	

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 checked="" 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

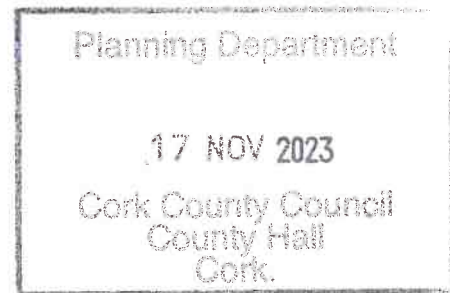
Signed (By Applicant Only)	William Carroll
Date	15/11/23

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	William Carroll
Date	15/11/23

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.

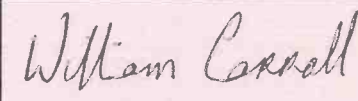
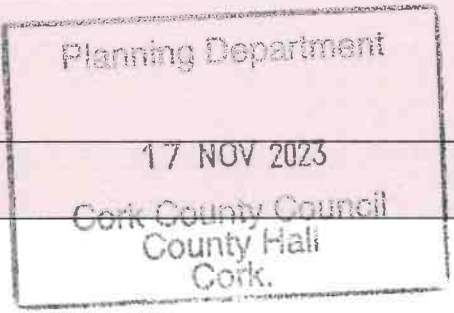
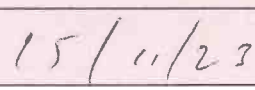
ADVISORY NOTES:

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)		
Date		



For Basic Payment Scheme,
Areas of Natural Constraint Scheme and
other Area-Based Schemes Purposes only
Year: 2021 Scale: 1:5000

Name: William Carroll
Address: Springfort
Charleville
Co Cork

Townland Code: D32911
Townland Name: LISCULLANE

Parcel	Digitised	MEA*	Claimed
D32911023	0.93	0.89	0.93
D32911035	2.81	2.79	2.79
D32911036	2.79	2.74	2.74
D32911040	4.19	4.19	4.19

Exclusions	Parcel	Excl	Area	Red%	Elig	Type
D32911035	X02	0.02	100%	0.00	Scrub	
D32911036	X01	0.05	100%	0.00	Scrub	
D32911040	X04	0.175	60%	0.07	Scrub	

Townland Code: D33015
Townland Name: SHANDRUM

Parcel	Digitised	MEA*	Claimed
D33015113	8.00	6	7.99
D33015136	0.30	0	0.00
D33015149	15.72	15.93	15.89
D33015150	10.02	10.02	9.95

Exclusions	Parcel	Excl	Area	Red%	Elig	Type
D33015149	X01	0.119	100%	0.00	Farm Road	
D33015149	X02	0.267	100%	0.00	Farm Road	
D33015149	X03	0.21	100%	0.00	Scrub	

Deductions	Parcel	Manual	Reason
D33015136		100%	Other

Ortho Used: Color Ortho Full Coverage

A
Proposed Farm Roadway
SITE LAYOUT.
X TO X

All areas displayed above are in hectares
* MEA calculation available online via agfood.ie
17/07/2017 ©Bluesky International Ltd. 2017
Unauthorized reproduction is not permitted.



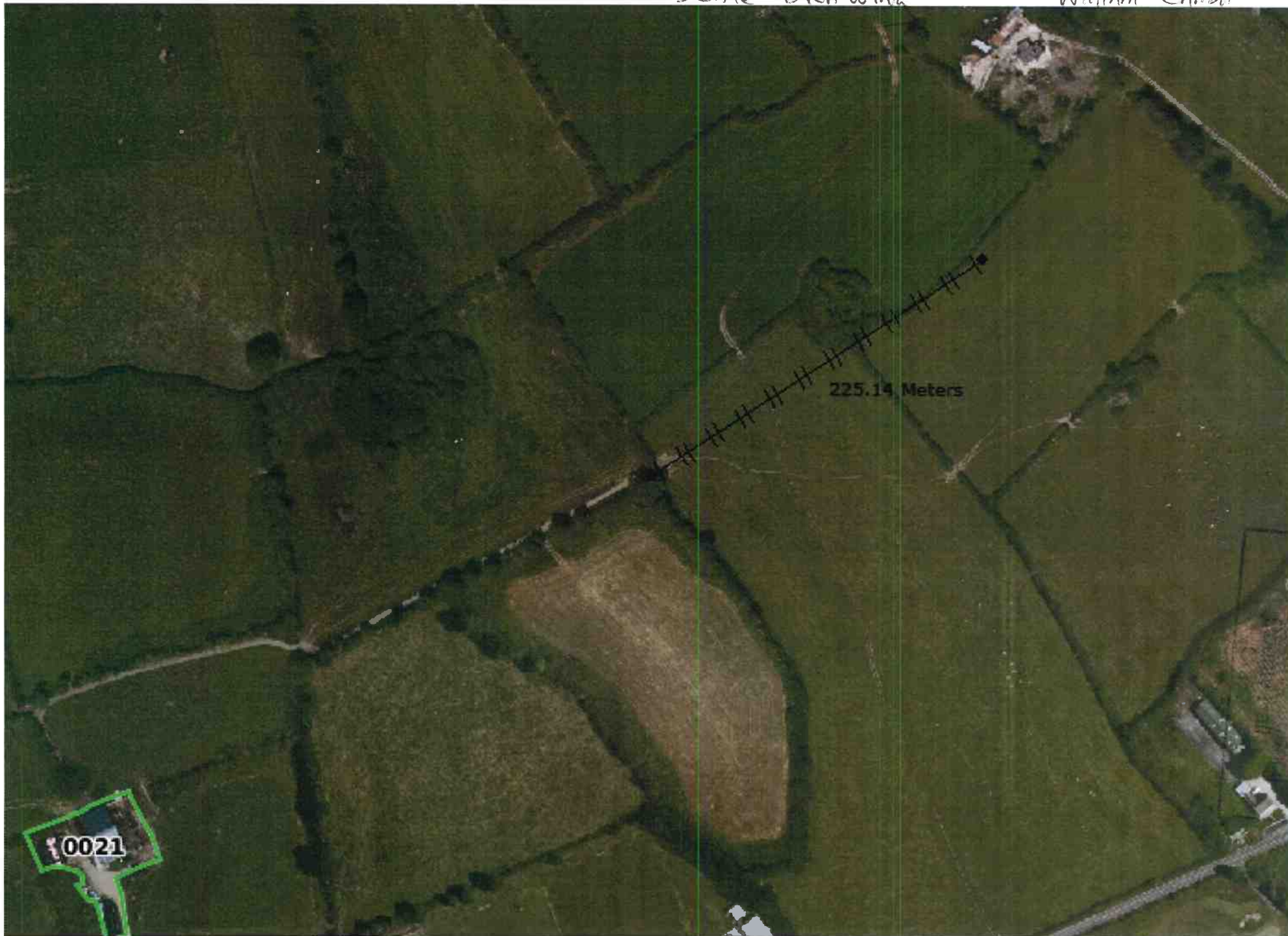
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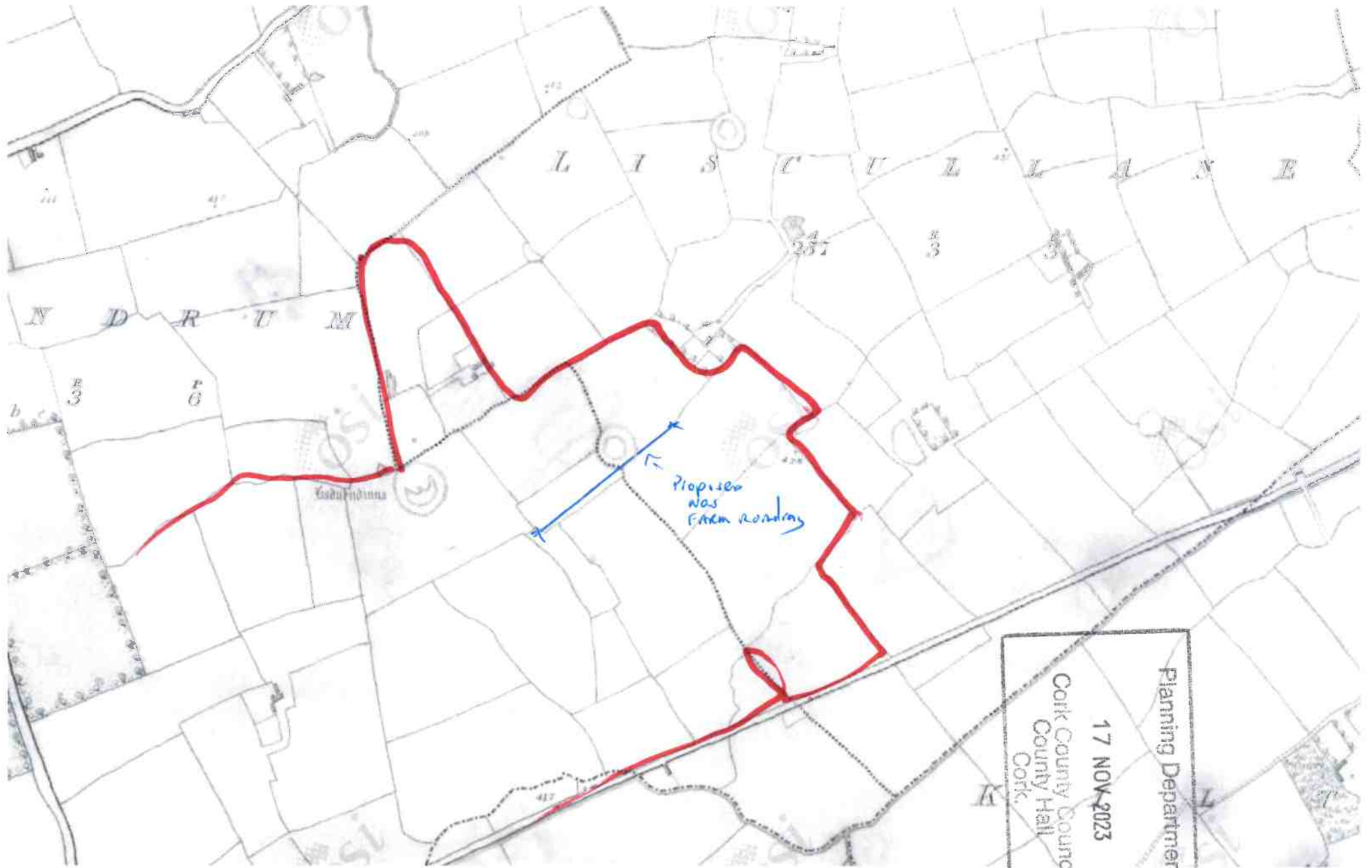
Scale Drawing

William Carroll

Spring Four
Charleeville

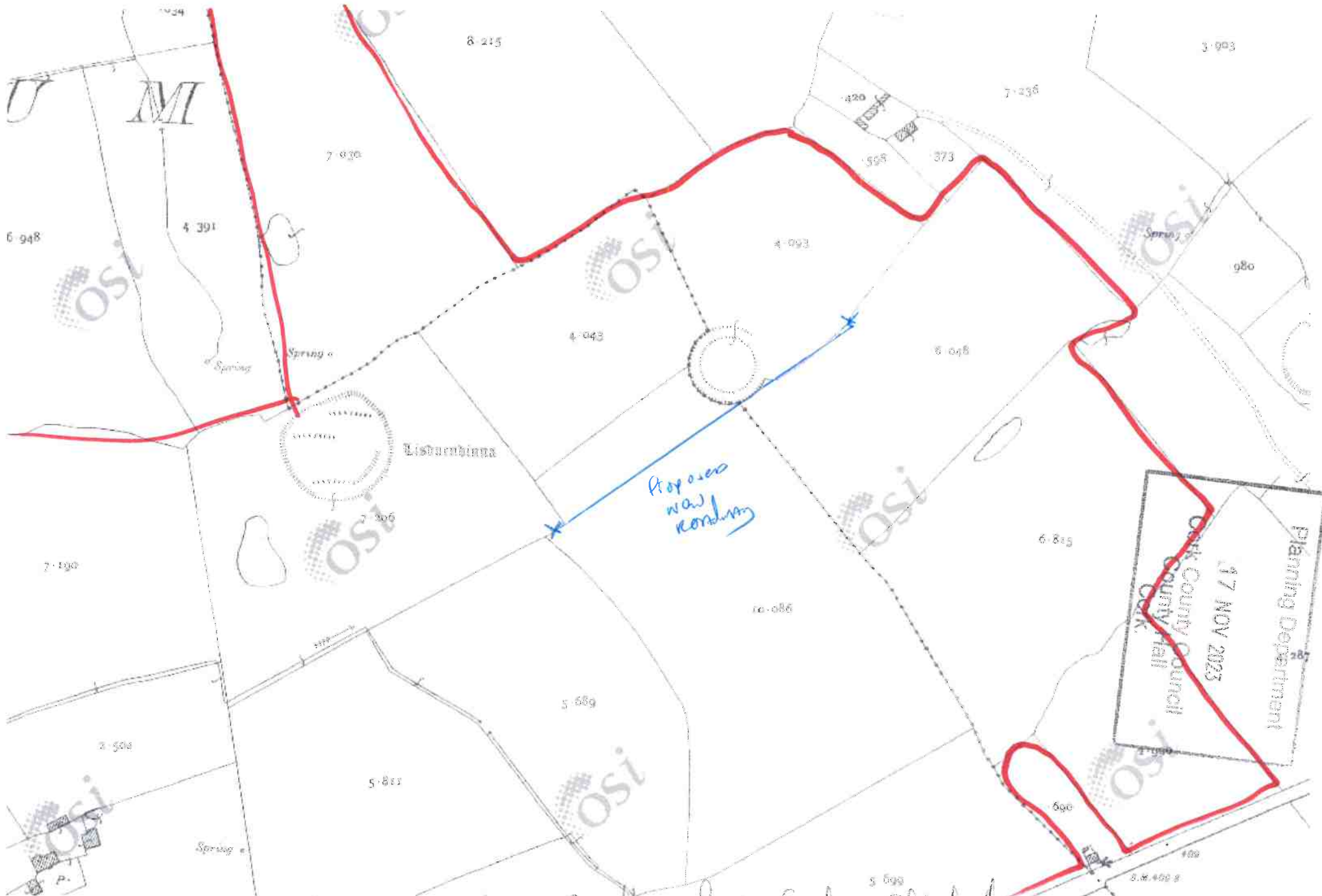


Planning Department
17 NOV 2023



Planning Department
17 NOV 2023
Cork County Council
County Hall
Cork.

6" OS William Caswell, Springfield Charlwith



25" OS William Carroll Spring Road Cladwell

17 NOV 2023
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 Planning Department