Comhairle Contae Chorcaí Cork County Council

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



Philip O'Connell & Therese O'Connell, c/o James O'Callaghan, 2 Glenarden, Glasheen Road, Cork. T12 D5Y4

29th February 2024

REF:

D/204/24

LOCATION:

Adamstown, Ballinhassig, 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 2nd February 2024 the Planning Authority, having considered the question whether the construction of an agricultural entrance is or is not exempted development at Adamstown, Ballinhassig, Co. Cork 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,
- Article 9 of the Planning and Development Regulations 2001-2023 as amended,
- Class 9 of Part 1, Schedule 2 of the Planning and Development Regulations 2001-2023 as amended and
- The particulars received by the Planning Authority on 2nd February, 2024

And Whereas Cork County Council has concluded that -

- The works proposed represent development,
- The proposed development can be considered exempt having regard to Class 9, Part 1, Schedule
 2 of the Planning and Development Regulations 2001-2023,

The Planning Authority concludes that the construction of an agricultural entrance at Adamstown, Ballinhassig, Co. Cork is 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.





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

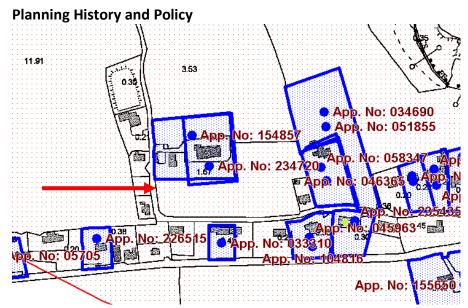
D204/24

2.0

Declaration on Exempted Development Under Section 5 of the Planning and Development Act 2000 as amended.

1.0 Introduction

1.1 Philip O Connell and Theresa O Connell have submitted a Section 5 declaration asking whether the construction of an agricultural entrance at Adamstown, Ballinhassig is or is not development and is or is not exempted development? The applicant form states the entrance would be on a public road not exceeding 4m.



Arrow Points to Approximate Location of Proposed Entrance

23/4720

Philip O Connell and Theresa O Connell applied for permission for construction: A)1 No. Agricultural building to include easi feed passage and slatted slurry tank. B)1 No. silage pit and 1 No. dungstead. C)Soiled Water/parlour washings tank along with associated site works. This application was withdrawn.

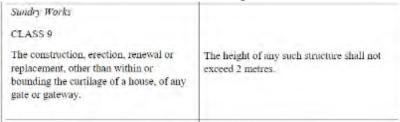
15/4857

Philip O Connell and Theresa O Connell were granted planning permission for construction of (a) 1no. agricultural building to include easi feed passage and slatted slurry tank, (b) 1no. silage pit and 1no. dungstead, (c) soiled water/parlour washings tank, and all associated site works.

2.1 In terms of policy, the site is located within Metropolitan Greenbelt rural area type as identified in the Cork County Development Plan 2022-2028.

3.0 Relevant Legislation

- 3.1 According to Section 2(1) of the Planning and Development Act 2000 (as amended), the definition of "works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.
- 3.2 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.
- 3.3 Section 4(1)(a) of the Act states the following shall be exempted development for the purposes of this Act-development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purposes of any building occupied together with land so used.."
- 3.4 Articles 6(1) and 9(1) of the Planning and Development Regulations 2001-2023 as amended are relevant.
- 3.5 Class 9, Part 1 of Schedule 2 of the Regulations is relevant as follows:

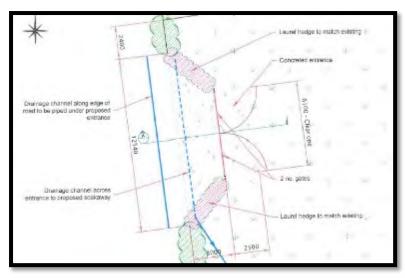


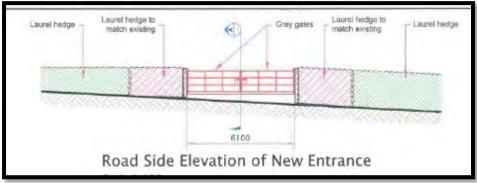
building line of the house, as the case may be, it shall be constructed using permeable
materials or otherwise allow for rainwater to soak into the ground.

4.0 Assessment

4.1 Detailed drawings of the proposed entrance have been submitted. It is proposed to remove 12.5m of existing field boundary/roadside boundary to construct the proposed entrance. The gate itself would be 6.1m in width. Splays would be formed by hedgerow. A drainage channel is proposed along the roadside edge. This would be connected to a proposed soakaway to the southeast of same. Proposed drawings:







- 4.2 I am satisfied that the proposal involves works to the roadside boundary. I am also satisfied that the proposal constitutes development being works on land. Therefore, the next question is whether the proposed development could be considered exempted development?
- 4.3 Class 9, Part 1 of Schedule 2 of the Regulations is for the construction, erection, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway. The condition/limitation is that the height of the structure shall not exceed 2m.
- 4.4 I have examined relevant cases from An Bord Pleanala such as 93.RL.3538, 15.RL2640, ABP-303326-18, ABP-300479-17.
- 4.5 The proposal involves the construction of a gate which does not bound the curtilage of a house but bounds agricultural land. The application form calls it an agricultural entrance. I am therefore satisfied that the Class 9 exemption is the correct class use to consider. The drawings do not state the height of the gate. I note from aerial and street view photography that the site is sloping. I have measured the drawings and the gate structure itself if 1.6m approx. Due to the sloping nature of the site the highest point of the piers associated with the gate would be 2m. It therefore meets with the criteria.



Streeview 2010



Aerial View

4.6 The next question is whether any of the items listed under article 9(1)(a) of the Regulations would de-exempt the development? Some items are more relevant such as 9(1)(a)(ii) consist of or comprise the formation, laying out of material widening of a means of access to a public road the surfaced carriageway of which exceeds 4m in width. The application form says the public road is less than 4m. I have measured the carriageway width and believe it is no greater than 4m by the proposed entrance.



- 4.7 Article 9(1)(a)(iii) outlines development shall not be exempted development if the carrying out of such development would endanger public safety by reason of a traffic hazard or obstruction of road users. This section 5 application has been referred to the Area Engineer but he has not submitted a report on same. However, given that the proposed entrance is located on a road which is a cul de sac, and which serves four dwellings (one of which is associated with the applicants landholding) so would be lightly trafficked, it is reasonable to assume that the proposed entrance would not result in a traffic hazard. I note that the report from the Environment Dept outlines no issue with the proposal.
- 4.8 I am satisfied that articles 9(1)(a)(i), (iiia), (iv), (v), (vi), (vii), (viiA), (viiB), (viiC), (viii), (ix), (x), (xi), (xii) are not relevant and do not de-exempt the proposed development.

Appropriate Assessment

4.9 The subject site is within the screening zone of the Cork Harbour Special Protection Area (SPA) ref. no. 004030 (as identified on PES) and having regard to the nature and extent of the development proposed and its relationship to the SPA, it is considered that the subject proposal would not be likely to give rise to significant impacts on the Cork Harbour Special Protection Area (SPA).

Recommendation

Whereas a question has arisen as to whether the construction of an agricultural entrance at Adamstown, Ballinhassig, is or is not development and is or is not exempted development?

And whereas the Planning Authority has had regard to

- (a) Sections 2,3 and 4 of the Planning and Development Act 2000 as amended,
- (b) Article 9 of the Planning and Development Regulations 2001-2023 as amended,

(c) Class 9 of Part 1, Schedule 2 of the Planning and Development Regulations 2001-2023 as amended,

And whereas the Planning Authority has concluded that:

- (a) The works proposed represent development,
- (b) The proposed development can be considered exempt having regard to Class 9, Part 1, Schedule 2 of the Planning and Development Regulations 2001-2023,

The Planning Authority concludes is development and is exempted development.

Susen Handy

Susan Hurley Executive Planner 29/02/2024

Eveleen Crowley

From:

Kevin Murphy (Inniscarra)

Sent:

Wednesday 28 February 2024 17:07

To:

Eveleen Crowley; Susan Hurley

Cc:

Greg Simpson; Madeleine Healy; Tracy OCallaghan

Subject:

RE: Section 5 Ref. No. D/204/24 - Adamstown, Ballinhassig

Hi Eveleen & All,

The Applicants, Philip & Therese O'Connell have a 21.15Ha landholding at this location. A planning application was granted in 2015 for the development of the farmyard which required improvement to comply with the requirements of the GAP Regulations at that time. I note that a further application in 2024 has been withdrawn.

I have no objection to the proposed agricultural entrance on environmental grounds.

Regards,

Kevin

Kevin Murphy | Executive Engineer | Environment Department

Cork County Council Inniscarra Waterworks Cork P31 W738 Ireland

T · 353-(0)21 4532755 M · 353-(0)86 8176757 kevinp.murphy@corkcoco.ie www.corkcoco.ie

Customer Portal: www.yourcouncil.ie

Caoimhin O'Murchu Innealtóir Feidhmiúcháin Comhshaol Stiúthóireacht

Comhairle Contae Chorcai Inischarra | Corcaigh | P31 W738 | Éire

T 353-(0)21 4532755 M 353(0)86 8176757

kevinp.murphy@corkcoco.ie www.corkcoco.ie

Tairseach na gcustaiméirí: www.yourcouncil.ie



Smaoinigh ar an timpeallacht sula ndéanann tú an ríomhphost seo a phriontáil. Please consider the Environment before printing this mail.

From: Eveleen Crowley < Eveleen.Crowley@CorkCoCo.ie>

Sent: Tuesday, February 6, 2024 1:32 PM

To: Susan Hurley <Susan.Hurley@CorkCoCo.ie>

Cc: Greg Simpson < Greg.Simpson@CorkCoCo.ie>; Kevin Murphy (Inniscarra) < KevinP.Murphy@CorkCoCo.ie>;

Madeleine Healy < Madeleine. Healy @CorkCoCo.ie >; Tracy OCallaghan < Tracy. OCallaghan @CorkCoCo.ie >

Subject: Section 5 Ref. No. D/204/24 - Adamstown, Ballinhassig

Good Afternoon,

Please find Section 5 Application from the Philip O'Connell & Therese O'Connell querying whether the construction of an agricultural entrance at Adamstown, Ballinhassig is exempted development. The decision due date for this is Thursday 29th February.

Please advise if you require me to circulate this to anybody else.

Kind Regards,



2 Glenarden, Glasheen Road, Cork, T12 D5Y4. 25th January 2024.

The Planning Department, Cork County Council, Floor 2, County Hall, Carrigrohane Road, Cork, T12 R2NC.

REF: L2198-06

RE: Application for Section 5 Declaration of Exemption for an Agricultural Entrance at Adamstown, Ballinhassig, Co. Cork.

Dear Sirs,

I wish to apply for a Section 5 Declaration of Exemption for an agricultural entrance at Adamstown, Ballinhassig, Co. Cork for Philip O'Connell & Therese O'Connell.

I would appreciate if any issue arises when going through validation that you might contact me immediately in order to remedy the situation and avoid protracted delays. I can be contacted directly on 087 9190830.

I trust this constitutes a valid application and I await your decision.

Yours Sincerely,

James O'Callaghan

Planning Department

0.2 FE8 2024

Cork County Council

County Hall

Cork



James O'Callaghan,

Farm Design Solutions,

2 Glenarden, Glasheen Road, Cork.

Document Transmittal

Job Title:

Proposed Agricultural Entrance at Adamstown, Ballinhassig, Co.

^{≓.} Cork.

Job No:

2198

Issue Date:

25th January 2024

Status:

Planning Application

DRG. NO:	REV:	TITLE:	SHEET:	QTY:
<u>Documents</u>				
-	-	Application Form for Section 5 Declaration of Exemption	- A4	4
Drawings				
221	DE1	Site Location Map - 1:10560	A3	6
222	DE1	Site Location Map - 1:2500	A3	6
223	DE1	Site Survey – 1:500	А3	6
224	DE1	Site Layout Plan - 1:500	А3	6
225	DE1	Entrance - Plan	A3	6
226	DE1	Entrance - Elevations, Section & Details	A3	6





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:

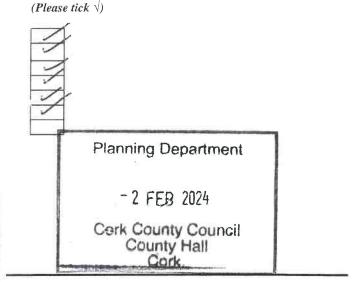
4 No. Copies of Site Layout Plan:

4 No. Copies Scaled Drawings of Development:

€80 Application Fee:

FOR OFFICE USE ONLY

Receipt No.	PL20002343
Cash/Cheque/ Credit Card	Cheque
Date	2/2/24
Declaration Ref. No.	D/204/24



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^{rd} 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.corkooco.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@corkooco.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)

PHILIP O CONNELL & THERESE O CONNELL.

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

ADAMSTOWN, BALLINHASSIG, 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

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	Planning Department	
744 F E V .		e agreef plans a
	-2 FEB 2024	
	Cerk County Council County Hall	
	Cork	

(a) Floor area of existing/proposed structure(s):	43.87 m ² Yes No No
(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 No If yes, please provide floor areas (m²) and previous planning reference(s) where applicabl
(c) If a change of use of land and/or building(s) is proposed, please state the following:	
Existing/previous use	Proposed use
AGRICULTURAL LAND.	AGRICULTURAL LAND
(d) Are you aware of any enforcement proceedings connected to this site?	Yes No If yes, please state relevant reference number(s)
LEGAL INTEREST OF APPLICANT IN T	
Please tick appropriate box to show applicant's legal interest in the land or 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):	
PROTECTED STRUCTURE DETAILS / A	RCHITECTURAL CONSERVATION AREA
Is this a Protected Structure/Proposed Protected Structure: Yes No	icture or within the curtilage of a Protected

7. APPROPRIATE ASSESSMENT:

Development Plan?

If yes, please state relevant reference No.

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.)?

Is this site located within an Architectural Conservation Area (ACA), as designated in the County

No

-2 FEB 2024

Cerk County Council County Hall

Cork.

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

Signed (By Applicant Only)	Philip & Come	Herese O CONDELL
Date	25/01/2024	25/01/2024

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

Planning Department

-2 FEB 2024

Cerk County Council
County Hall
Cork

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

	sion for my sensitive personal data submitted	to the ruthing Authority to be processed
for the purpose st	ated above.	THERE'SE CONFELL
Signed	Philips and	Hora o Const
Date	25/01/2024	25/01/2024

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@corkeoco.ie or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westeckplanninginfo@corkeoco.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.

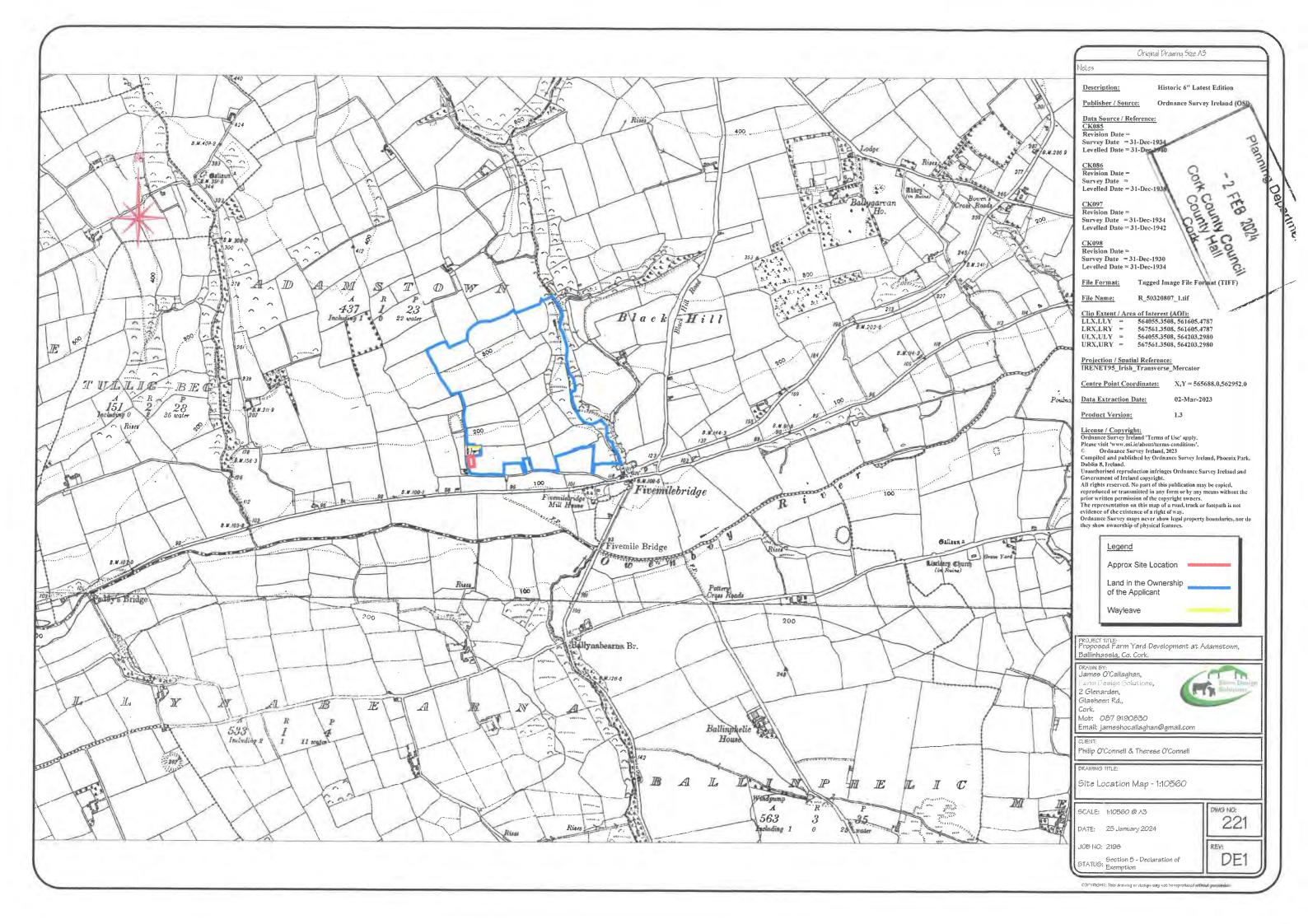
9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the <u>Planning and Development Acts 2000</u>, as <u>amended</u> and the Regulations made thereunder:

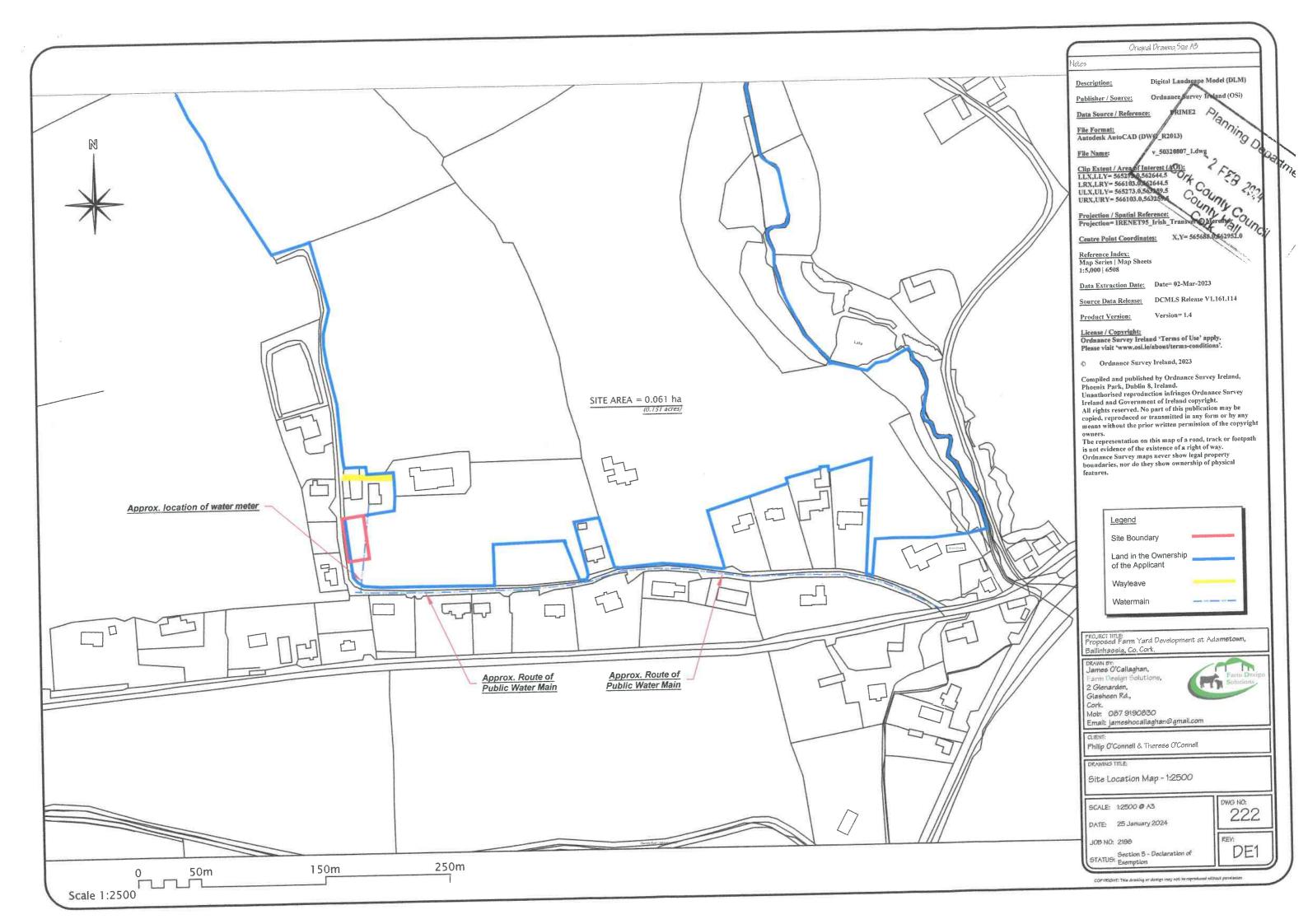
Signed (Applicant or Agent as appropriate)	Jane O Call	
Date	25/01/2024	

Planning Department

- 2 FEB 2024

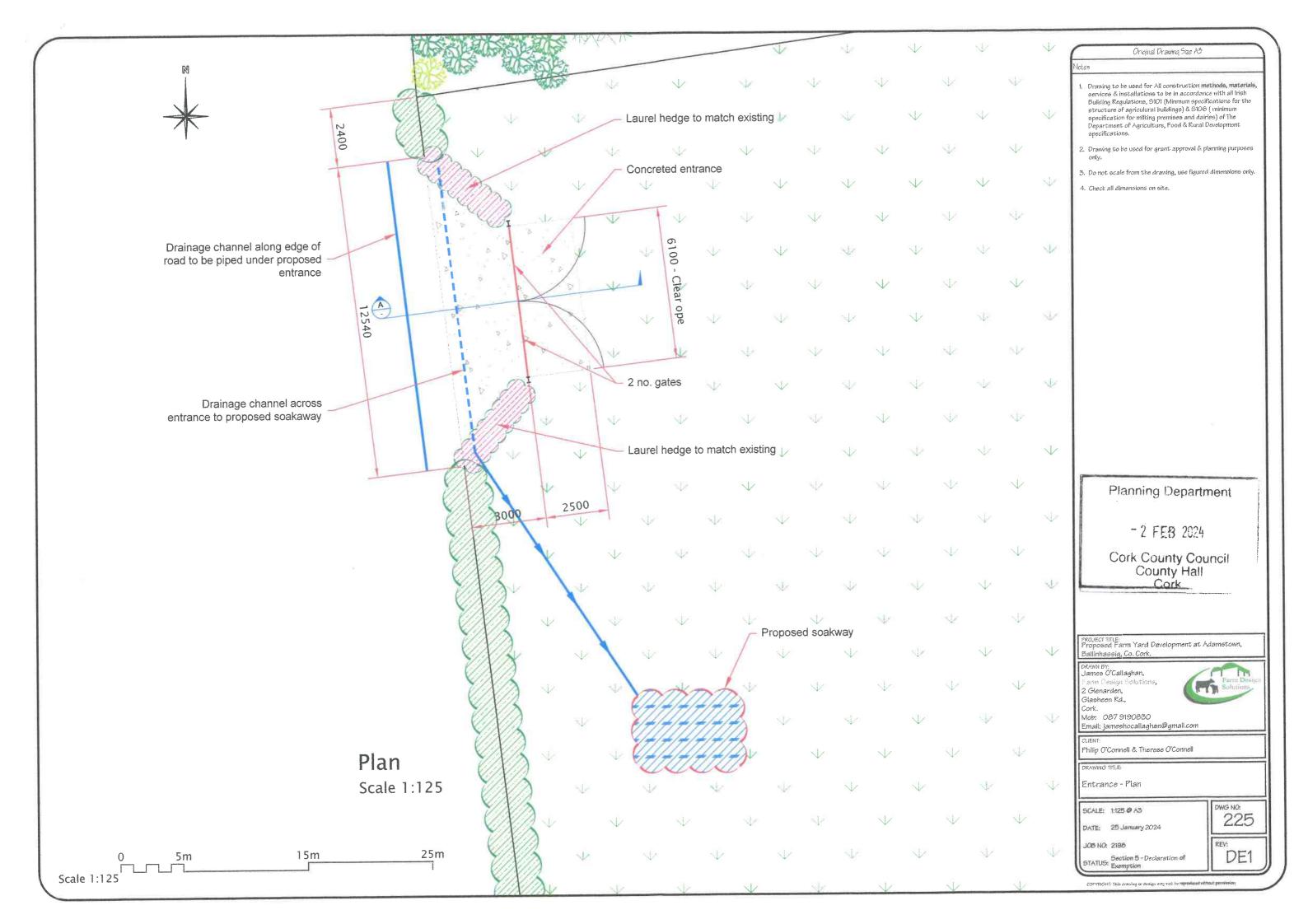
Cerk County Council
County Hall
Cork

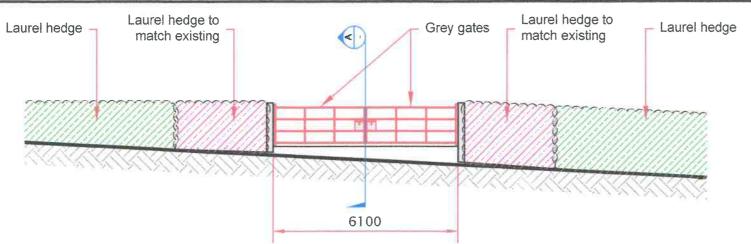






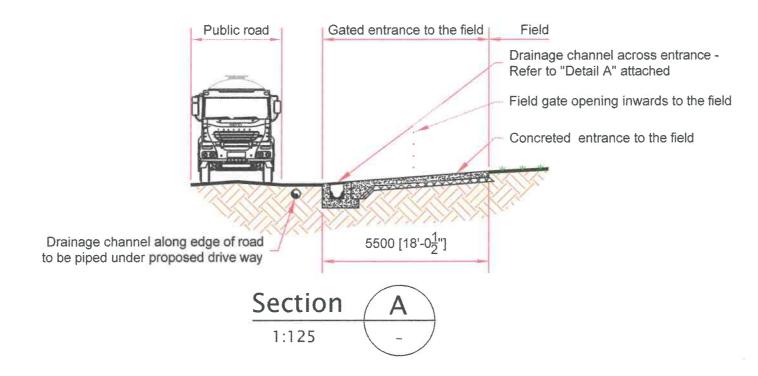


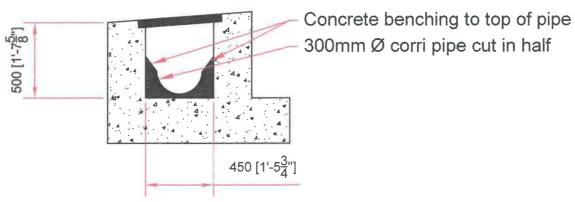




Road Side Elevation of New Entrance

Scale 1:125





Detail A - Typical Section thru. Drainage Channel

0 5m 15m 25 Scale 1:25

Original Drawing Size A3

Notes

- Drawing to be used for All construction methods, materials, services & installations to be in accordance with all frish Building Regulations, \$101 (Minmum specifications for the structure of agricultural buildings) & \$106 (minimum specification for milking premises and dairies) of The Department of Agriculture, Food & Rural Development specifications.
- Drawing to be used for grant approval & planning purposes only.
- 3. Do not scale from the drawing, use figured dimensions only.
- 4. Check all dimensions on site.

Planning Department

- 2 FEB 2024

Cork County Council
County Hall
Cork

PROJECT TITLE: Proposed Farm Yard Development at Adamstown, Ballinhassig, Co. Cork.

ORAWN BY: James O'Callaghan, Farm Deoign Goluti

2 Glenarden, Glasheen Rd., Cork,

Mob: 087 9190830 Email: jameshocallaghan@gmail.com

CLIENT:

Phillip O'Connell & Therese O'Connell

DRAWING TITE

Entrance - Elevations, Section & Details

SCALE: 1:125 @ A3 & 1:25 @ A3

DATE: 25 January 2024

....

JOB NO: 2198
Section 5 - Declaration of

DE1

DWG NO:

226

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