

Comhairle Contae Chorcaí Cork County Council

Rannóg Pleanála, Teach Norton,
Bóthar Chorcaí, An Sciobairín,
Co. Chorcaí P81 AT28.
Fón: (028) 40340 • Faics (028) 21660
Suíomh Greasain: www.corkcoco.ie
Planning Section, Norton House,
Cork Road, Skibbereen,
Co. Cork P81 AT28.
Tel: (028) 40340 • Fax: (028) 21660
Web: www.corkcoco.ie



Comharchumann Chléire Teoranta,
c/o Kevin MacCana,
Oileán Chléire,
An Sciobairín,
Co. Chorcaí.

5th June, 2024.

Our Ref: D/18/24.

**RE/ Declaration request on exempted development under Section 5
of the Planning & Development Act, 2000 (as amended).**

Dear Sir,

On the basis of the information and plans submitted by you on 15th May, 2024, on behalf of Comharchumann Chléire Teoranta, the Planning Authority declares that the creation of a mural on 2 No. external walls of the Aonad 1 building at Comharchumann Chléire Teoranta, Baile Íarthach Thuaidh, Oilean Chléire, An Sciobairín, Co Cork **is development and is not exempted development** as per Schedule 2, Part 1, Class 12 of the Planning & Development Regulations 2001 (as amended).

Column 2 of Class 12 stipulates “such painting may not, except in the case of a hoarding or other temporary structure bounding land on which development consisting of works is being or will be carried out in pursuance of a permission granted under Part III of the Act or as exempted development, be for the purposes of creating a mural” The proposed painting will extend to 2 No. external walls of an existing building for the purposes of creating a mural and therefore does not comply with Column 2 of Class 12 and is not exempted development.

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.

Receipt No. WCP12676, in respect of €80.00 fee, is issued herewith.

Yours faithfully,


KEVIN O'REGAN
SENIOR EXECUTIVE OFFICER

REG. No. _____
PLANNING (WEST) DEPT

07 JUN 2024

CORK COUNTY COUNCIL
NORTON HOUSE, SKIBBEREEN, Co. CORK

Anne Lordan

From: Ronnie Barry
Sent: Tuesday 4 June 2024 17:10
To: Anne Lordan
Subject: FW: D/18/24 - Section 5 Request
Attachments: D.18.24 application.pdf; D-18-24 Section 5 Declaration for Mural on an existing building on Cape Clear - Planner's Report .docx

Anne,

I have discussed this Section 5 with the Area Planner.

I have read the attached report and I endorse the recommendation therein. The proposed development is considered to constitute development and is not exempted development.

Regards,

Ronnie.

Ronnie Barry | Pleanálaí Feidhmiúcháin Sinsearach | **Pleanáil agus Forbairt**
Comhairle Contae Chorcaí | Teach Norton | Bóthar Chorcaí | An Sciobairín | Co.Chorcaí P81 AT28, Éire
T+353 (0)28-40340 | ronnie.barry@corkcoco.ie | www.corkcoco.ie
Tairseach na gcustaiméirí: www.yourcouncil.ie

Ronnie Barry | Senior Executive Planner | **Planning and Development**
Cork County Council | Norton House | Cork Road | Skibbereen | Co.Cork P81 AT28, Ireland
T+353 (0)28-40340 | ronnie.barry@corkcoco.ie | www.corkcoco.ie
Customer Portal: www.yourcouncil.ie

From: Olivia Field <Olivia.Field@CorkCoCo.ie>
Sent: Tuesday, June 4, 2024 5:08 PM
To: Ronnie Barry <Ronnie.Barry@CorkCoCo.ie>
Cc: Anne Lordan <Anne.Lordan@CorkCoCo.ie>
Subject: FW: D/18/24 - Section 5 Request

Hi Ronnie,

Please find attached my report for this S5 application.

Regards,

Olivia

From: Anne Lordan <Anne.Lordan@CorkCoCo.ie>
Sent: Thursday, May 16, 2024 3:38 PM
To: Ronnie Barry <Ronnie.Barry@CorkCoCo.ie>
Cc: Olivia Field <Olivia.Field@CorkCoCo.ie>; Kevin O'Regan <kevin.oregan@CorkCoCo.ie>
Subject: D/18/24 - Section 5 Request

Hi Ronnie,

Attached please find application for a Declaration of Exemption received on

Section 5 Declaration – Planner’s Report

File Reference: D18/24

Description: Creation of a mural on 2 no. external walls of the ‘Aonad 1’ building at Comharchumann Chleire.

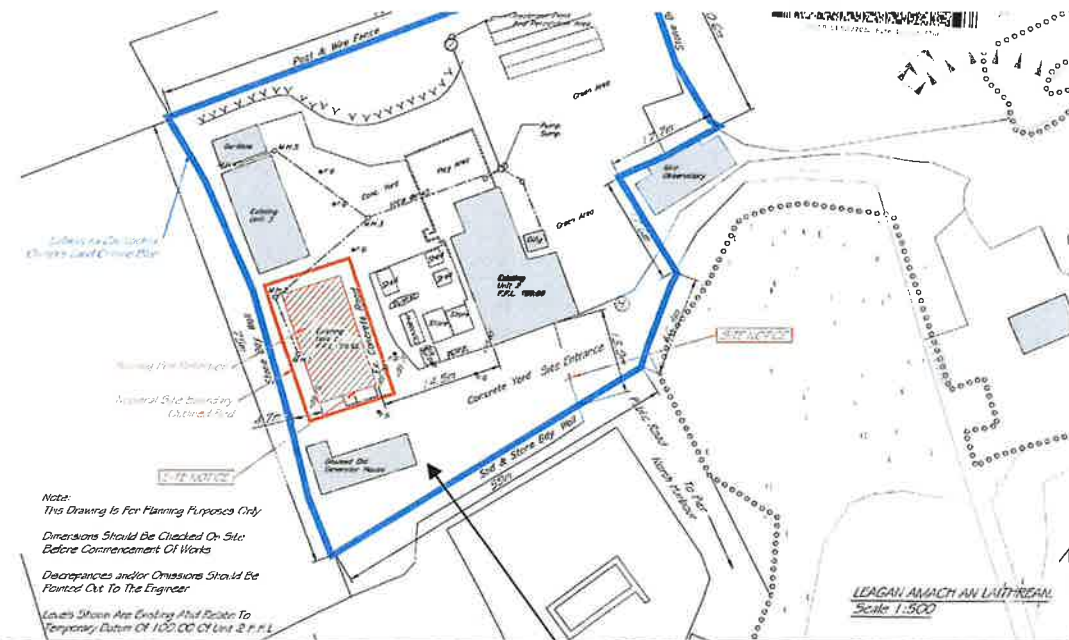
Applicant: Comharchumann Chleire Teoranta

Location: North Pier, Cape Clear Island

Date received: 15/05/2024

Decision Date: 11/06/2024

Site Location Map



Location of existing building for the proposed Mural highlighted in Red

Question/Declaration Details

Whether or not the proposed mural to be painted onto the external elevations of an existing single storey building is exempt from planning?

Planning History

Under ref. no. 22/558 Udaras na Geltachta were granted permission for the retention of the old industrial building unit as reconstructed and all associated site works.

Relevant Legislation

Planning & Development Act 2000 (as amended)

- S.2(1) In this Act, except where the context otherwise requires—
- “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.
- S.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 any structure or other land.
- S.(4)(1)(h) The following shall be exempted developments for the purposes of this Act— h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.
- F38[(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.
- S.57 – (1) Notwithstanding Section 4(1)(a), (h), (i), F205[(ia), (j), (k), or (l) and any regulations made under section 4(2),] the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of –
- (a) the structure, or
 - (b) any element of the structure which contributes to its special architectural historical, archaeological, artistic, cultural, scientific, social or technical interest.
- S.82 – (1) F374 Notwithstanding paragraphs (a), (h), (i), (ia), (j), (k) or (l) of section 4(1), or any regulations made under Section 4(2), the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

Planning & Development Regulations 2001 (as amended)

- Article 6 Subject to article 9, development consisting of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development 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.
- Article 9. Restrictions on Exemption
- (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

(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,

SCHEDULE 2, Part 1, Exempted development – General

Column 1 Description of Development	Column 2 Conditions and Limitations
Class 12 The painting of any external part of any building or other structure.	Such painting may not, except in the case of a hoarding or other temporary structure bounding land on which development consisting of works is being or will be carried out in pursuance of a permission granted under Part III of the Act or as exempted development, be for the purposes of creating a mural.

Relevant Policy

The site is located within an established business area, close to the library and tourist centre near the north Harbour on Cape Clear. The site lies within a High Value Landscape area as designated under Cork County Development Plan 2022.

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 site is located within the Roaringwater Bay and Islands SAC.

Having regard to its nature, scale and location it is considered that the proposed development would not affect the integrity of the protected site/SAC. 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 is as follows:

Whether or not the proposed mural to be painted onto the external elevations of an existing single storey building is exempt from planning?

The subject site comprises of a detached single storey building within an established light industrial/commercial area near the North Harbour.

The application form includes an impression drawing of the proposed mural. The painting will occur on the south and east side elevations of the building.



Impression drawing showing the extent of proposed mural on the existing building.

CLASS 12

SCHEDULE 2, Part 1 Exempted Development, Class 12 of the P&D Regulations provides for “The painting of any external part of any building or other structure.”

The mural is proposed on the south and east side elevations of an existing building. It is considered that the proposed development comes within the scope of Class 12.

Column 2 of Class 12 stipulates “Such painting may not, except in the case of a hoarding or other temporary structure bounding land on which development consisting of works is being or will be carried out in pursuance of a permission granted under Part III of the Act or as exempted development, be for the purposes of creating a mural.”

The proposed painting will extend to 2 no. external walls of an existing building for the purposes of creating a mural and therefore does not comply with Column 2 of Class 12 and is not exempted development.

High Value Landscape

The proposed development is located within a High Value Landscape. Given the location of the proposed development which will be screened by an existing building to the south, I do not consider the proposed development would materially interfere with the character of the landscape.

Recommendation

Having regard to:

- the particulars received by the Planning Authority on 15/05/2024
- Section 2(1) and Section 3(1) of the Planning and Development Act 2000 (as amended)
- SCHEDULE 2, Part 1 Exempted Development, Class 12 of the Planning and Development Regulations 2001 (as amended)

it is considered that, the proposal **Is Development and Is Not Exempted Development**

Olivia Field

.....
Olivia Field
Assistant Planner
04/06/2024



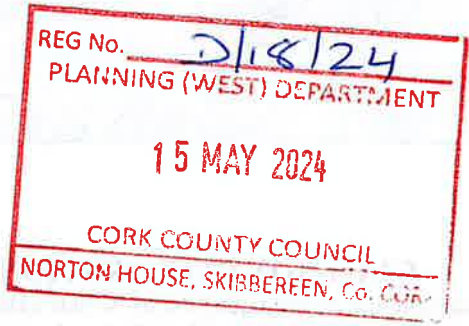
CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

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



FOR OFFICE USE ONLY

Receipt No.	
Cash/Cheque/ Credit Card	
Date	
Declaration Ref. No.	

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)

Comhaschumann Chléire Teoranta.

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

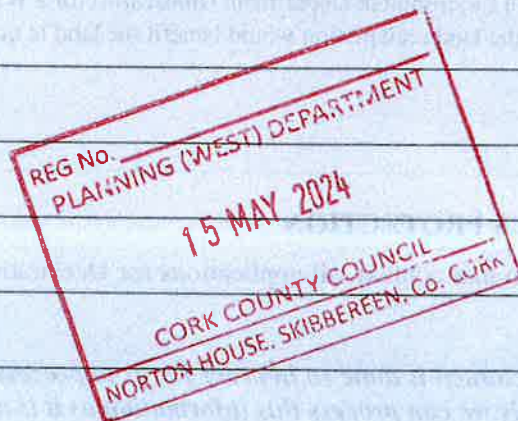
Aonad 1
Baile Íarthach Thuaidh
Cléire
An Sciobairín Co Chiarraí P81 DX54

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

Whether or not the proposed mural on
the 'Aonad 1' building at Comhurchumann
Chléire is exempt from planning?



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 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 _____ _____ Proposed use	
(d) Are you aware of any enforcement proceedings connected to this site?	Yes <input type="checkbox"/> No <input 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 type="checkbox"/>	B. Other <input checked="" type="checkbox"/>
Where legal interest is "Other", please state your interest in the land/structure:	we are developing it as a tourist attraction	
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):	Udarás na Gaeltachta	

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 type="checkbox"/>

7. APPROPRIATE ASSESSMENT:

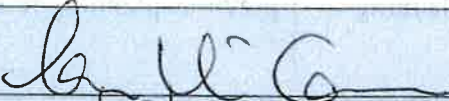
Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes No

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	8/5/24

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	8/5/24

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.

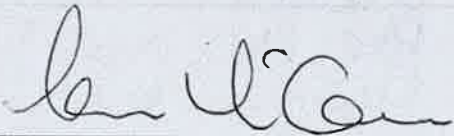
ADVISORY NOTES:

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	2/5/24



Site Location Map

522906

494088

496549

521089

521089



Centre
Coordinates:
 ITM 496319,521998

Published: 1/10/2022
Order No.: 50261547_1

Map Series: 6 Inch Raster
Map Sheets: CK153+153A

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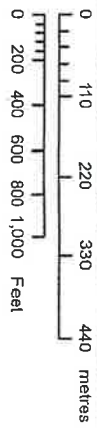
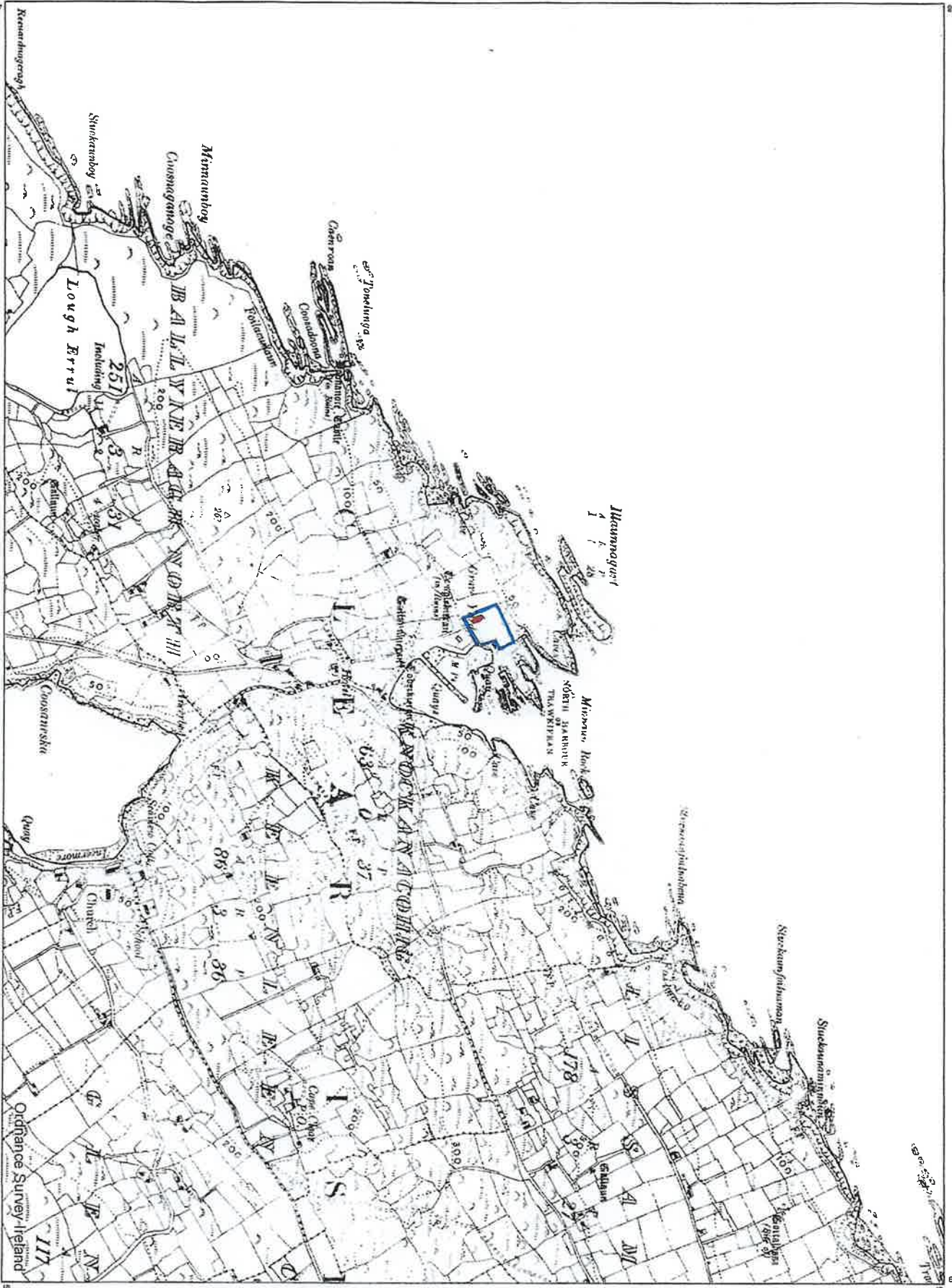
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521089

496549

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Planning Pack Map

522094

495202

522094

495435



National Mapping Agency

CENTRE COORDINATES:
ITM 495319,521998

PUBLISHED: 11/04/2022

ORDER NO.: 50261547_1

MAP SERIES: 1:5,000 7126
1:2,500 7126-D
1:2,500 7129-B

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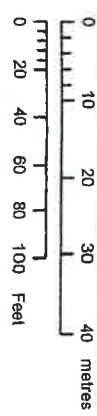
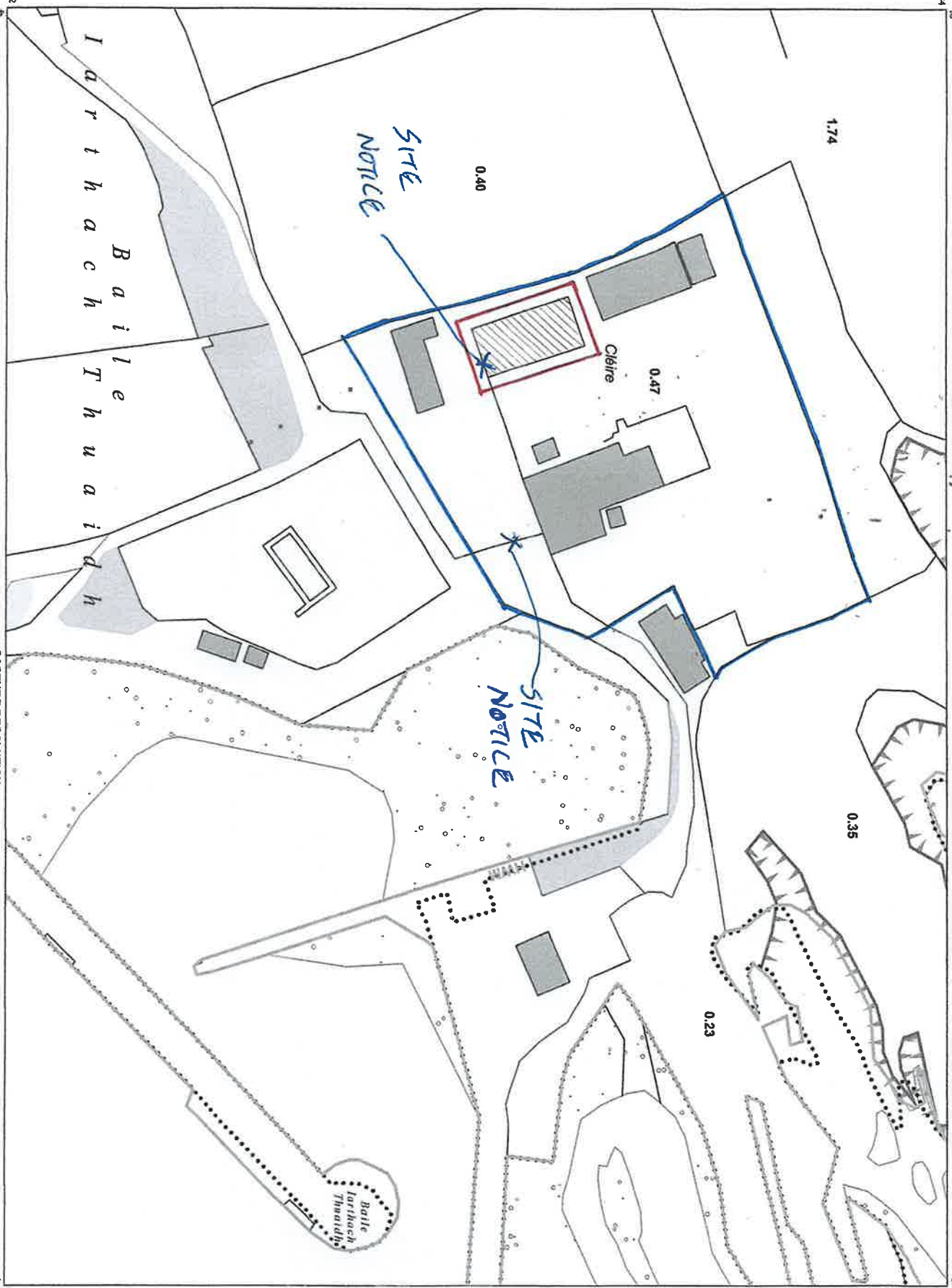
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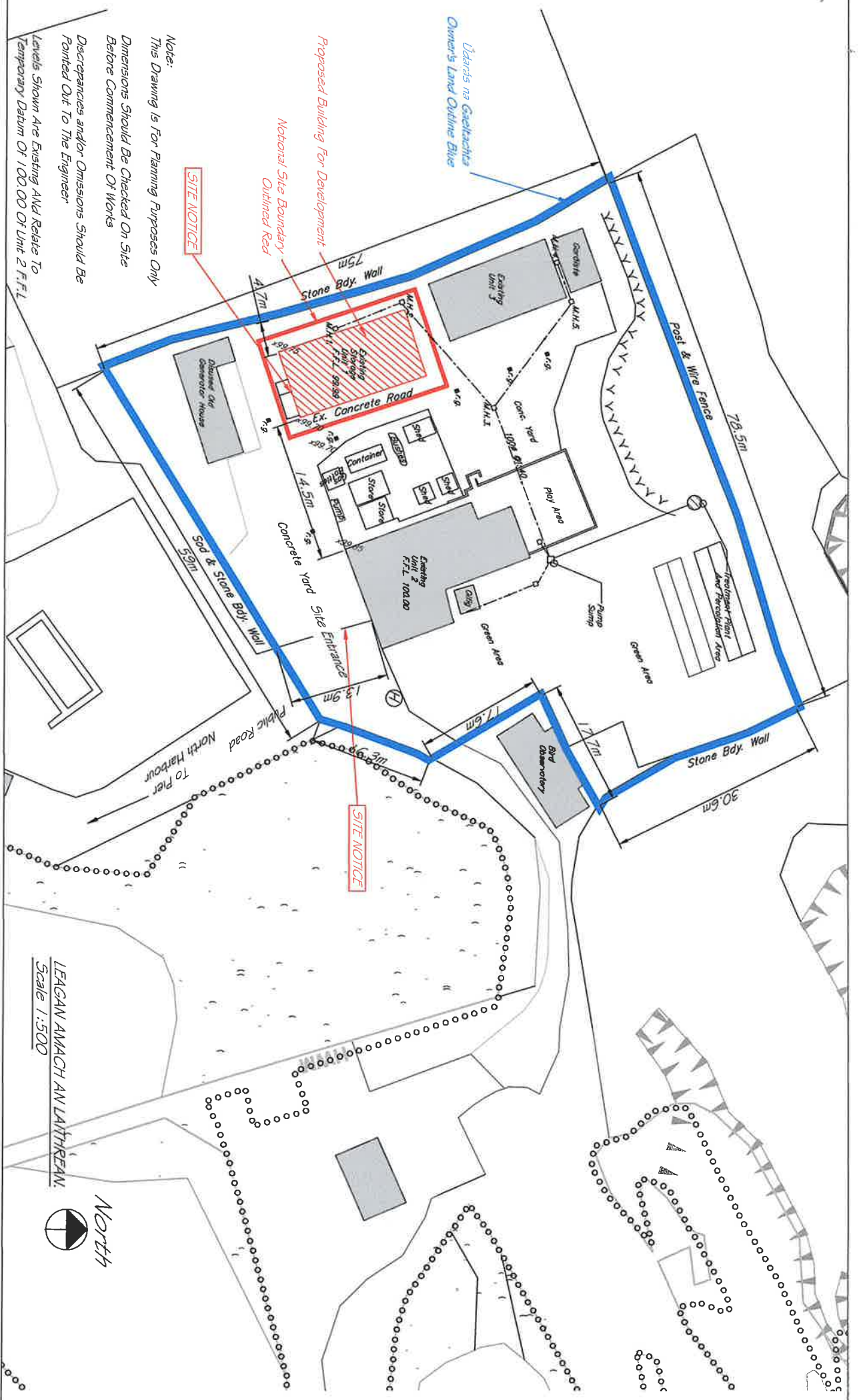


521912

495202

521912

495435



Note:
 This Drawing Is For Planning Purposes Only
 Dimensions Should Be Checked On Site
 Before Commencement Of Works
 Discrepancies and/or Omissions Should Be
 Pointed Out To The Engineer
 Levels Shown Are Existing AND Relate To
 Temporary Datum Of 100.00 Of Unit 2 F.F.L

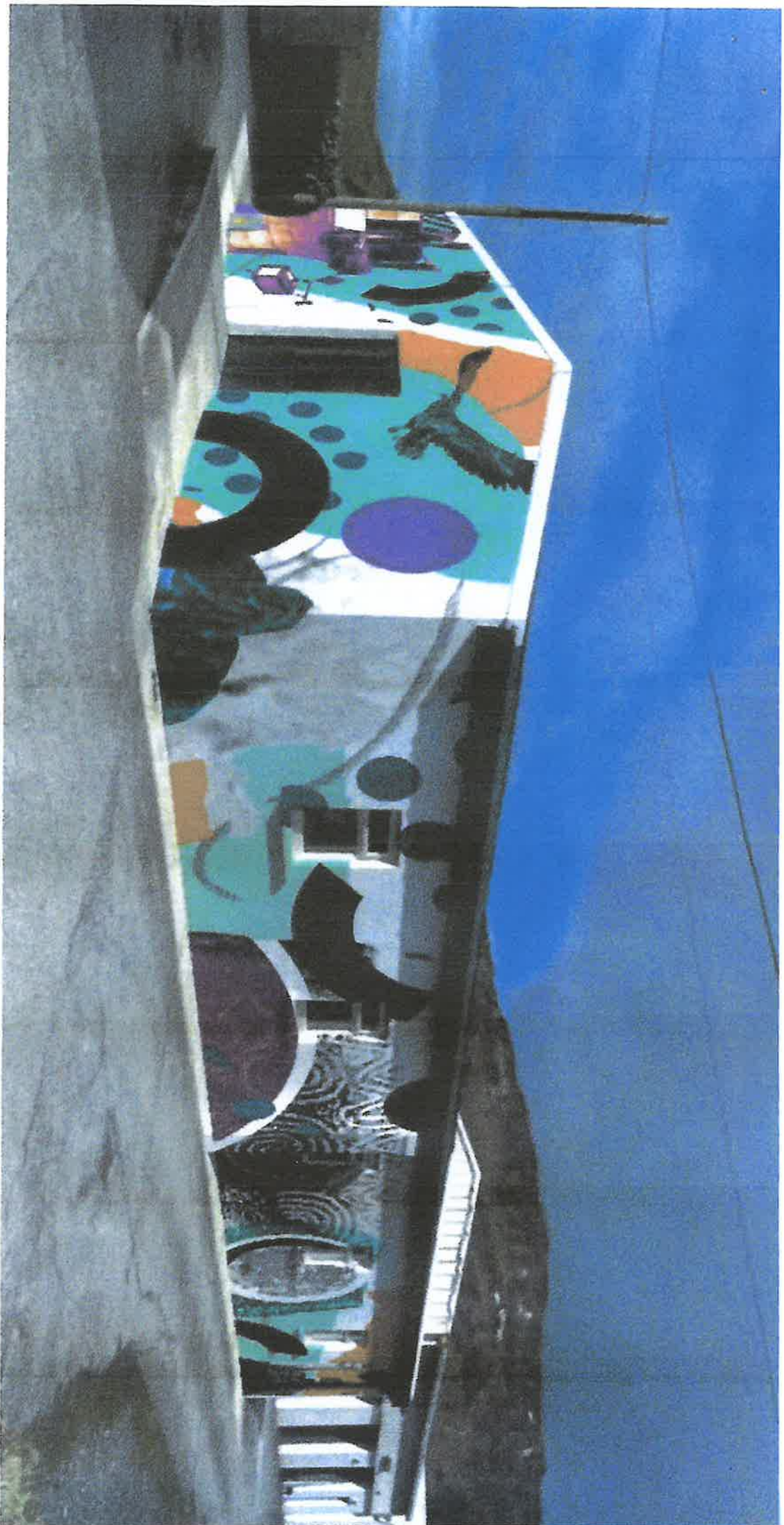
Michael Mac Suibhne,
Comhairleoir Innealtóireachta,
 Baile Mhic Iúe,
 Co. Chiarraí.
 Fón: 026 45338 mob: 086 2607996
 email: michaelmacsuibhne@gmail.com

Uimh	Thuarasc	Dáta

Comharbhannamh Chláire Teo
 Aonad 1 mar larsmalam ag ionchorprú
 eispéirachas 360 an Charraig Aonar
 Baile Iarthach Thuaidh,
 Oileán Chláire

LEAGAN AMACH AN LAITHREAN
 Scale 1:500
 North

SITE LAYOUT PLAN	
Uimhri-Íreann	659
Dáta	Fachta 2023
Éinseal	mms
Fréamhlaí	Scale as shown @ A3



impression