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



Mr. Tim Lawlor, c/o Mr. Liam O'Donovan, South View House, Caherkirky, Rossmore, Clonakilty, Co. Cork.

12th July, 2023.

Our Ref: D/24/23

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 12th June, 2023 on behalf of Mr. Tim Lawlor, the Planning Authority declares that the proposed machinery storage shed at Cashel, Leap, Co. Cork is development and is *not exempted development* having regard to Sections 3 and 4 of the Planning & Development Act, 2000, as amended and to Articles 6(1) and 9(1)(a)(iii) of the Planning & Development Regulations, 2001, as amended.

The development raises concerns that, notwithstanding the use of the shed for storage of farm machinery rather than housing animals, remain regarding impacts on road usage and road safety. For these reasons Article 9(1)(a)(iii) of the Planning and Development Regulations, 2001, as amended, applies and the development is deemed to be development and 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. WCP11657, in respect of €80.00 fee, is issued herewith.

Yours faithfully,

KEVIN O'REGAN

SENIOR EXECUTIVE OFFICER

REG. NO. PLANNING INVESTIDES
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TA JUL 2023

COFFE COUNTY COUNCIL
NORTON HOUSE, SKISSERIEN, CO. CORNESI AT 28





Anne Lordan

From:

Tim Twomey

Sent:

Monday 10 July 2023 14:06

To: Cc: Anne Lordan Kevin O'Regan

Subject:

RE: D-24-23

Attachments:

Exempted Development Request.docx; D-24-23-Farm machinery shed-not exempt-

road safety.docx

Hi Anne,

Having regard to the report received from the Area Engineer and comments re road safety, I agree with the Area Planners Recommendation.

Regards,

Tim

From: Annie O'Keeffe < Annie. OKeeffe @ CorkCoCo.ie >

Sent: Monday 10 July 2023 12:31

To: Tim Twomey <Tim.Twomey@CorkCoCo.ie> **Cc:** Anne Lordan <Anne.Lordan@CorkCoCo.ie>

Subject: D-24-23

Hi Tim,

Sorry for the delay...computer trouble Friday afternoon.

Annie

Ref D/24/23

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

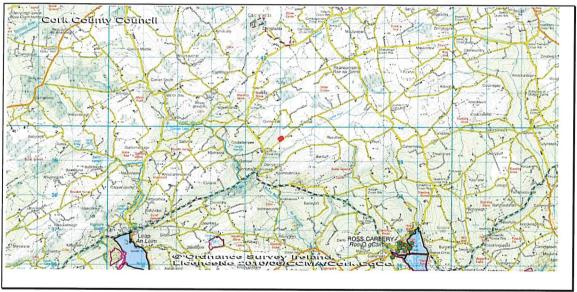
Re: Erection of machinery storage shed for farm machinery at Cashel, Leap, Co. Cork

Proposal

The applicant seeks a Declaration of Exemption for an agricultural shed stated to be intended for use as a storage for agricultural machinery and equipment. The site is currently in agricultural use and forms part of a landholding owned by the applicant. The majority of the farmyard and landholding is located on the southern side of the public road.

The development has a stated floor area of 284sqm and has a maximum ridge height of 6m. The shed is sited 11m from the public road and there are no 3rd party dwellings located within 100m of the proposed shed.

The applicant is seeking a Declaration of Exemption under Class 9 of the Planning and Development Regulations 2001, as amended.



Site marked in red

Planning History

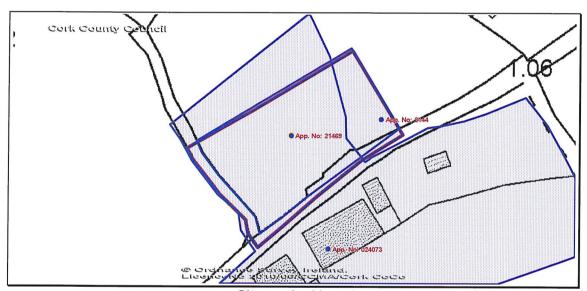
Permission for a calf house and associated site works was refused under 21/44 for the following reasons:

1	The proposed development, by reason of intensification of cattle and farm
	machinery road crossings resulting in increased soiled effluent on the public road,
	would endanger public safety by reason of traffic hazard and would, therefore, be
	contrary to the proper planning and sustainable development of the area.
2	The proposed development, by reason of its elevated and prominent location, and
	having regard to the proximity of the proposed development to the site boundary

thereby precluding screen planting, would result in visually intrusive development and would, therefore, be contrary to Objective GI 6-1, as set down in the Cork County Development Plan 2014, which seeks to protect the visual and scenic amenities of County Cork's built and natural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

A similar development was subsequently refused for a calf house and slatted slurry tank under 21/469 for the following reason:

The proposed development, by reason of intensification of cattle and farm machinery road crossings resulting in increased soiled effluent on the public road, would endanger public safety by reason of traffic hazard and would, therefore, be contrary to the proper planning and sustainable development of the area.



Site marked in red

Relevant Statutory Provisions

The most relevant statutory provisions are as follows:

Section 2 of the Planning and Development Act, 2000 provides that: "works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1) of the Planning and Development Act, 2000 provides that: "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 structures or other land.

Section 4 of the Planning and Development Act 2000 sets out what shall be exempted developments for the purposes of the Act. Section 4(2) makes provision for ministerial regulations to set out further exemptions. The 2001 Planning Regulations as amended derive from this section and designates further works as being exempted development for the purposes of the act.

Article 6(1) of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) makes provision for certain classes of development to be exempt from the requirement to obtain planning permission.

Specifically, Class 9 of Part 3 of Schedule 2 of these Regulations states:

CLASS 9

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

- 1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry but excluding the housing of animals or the storing of effluent.
- 2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.
- 3. No such structure shall be situated within 10 metres of any public road.
- 4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
- 5. No such structure shall be situated 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.
- 6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

Article 9 of the Planning and Development Regulations, 2001 (S.I. No. 600 of 2001) makes provisions for the removal of the above exemptions in particular

circumstances. Of most relevance in this instance is Article 9(1)(a)(iii) whereby development to which Article 6 relates shall not be exempted development if the carrying out of such development would endanger public safety by reason of traffic hazard or obstruction of road users

Cork County Development Plan 2022

The subject site is located in a rural area identified as a Tourism and Rural Diversification Area in the Cork County Development Plan 2022. The site is not located within the indicative flood risk zone for fluvial or pluvial flooding as mapped on the Flood Risk maps. The site is not located within the indicative Screening Zone for any Natura 2000 site.

Internal Reports

A report from the Area Engineer received by email on 09/07/2023 refers to previous applications that were refused on the site due to road safety concerns and the report also notes that sufficient room exists for the proposed development on the southern side of the public road. The report indicates that the development would not be acceptable for the following reasons:

- 1. The proposed development would endanger public safety by reason of traffic hazard because the site is located adjoining a relatively busy public road where the cross-traffic movements likely to be generated by the proposed development would interfere with the safety and free flow of traffic on the road.
- 2. The proposed development would endanger public safety by reason of traffic hazard because it would add to the multiplicity of entrances onto a narrow road which is inadequate to cater for additional traffic movements likely to be generated by the development.

Assessment

I inspected the site on 21/06/2023. At present the site accommodates a silage slab which is located centrally on the site along with concrete aprons. The main farmyard is located across the road to the south.

The proposed development constitutes development in accordance with the definition of development as set out in Section 3(1) of the Planning and Development Act, 2000, as amended. The question therefore arises as to whether the proposed development is exempt development.

The proposal for exemption is assessed in accordance with the provisions of Article 6(1) and Article 9(1)(a)(iii) of the Planning and Development Regulations, 2001 (as amended) which are referred to above.

Section 4 of the Planning and Development Act 2000, as amended, and Article 6 of the Planning and Development Regulations 2001, as amended, makes provision for certain classes of development to be exempt from the requirement to obtain planning permission.

Of particular relevance in the assessment of the current proposal is Class 9 of Part 3 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 which allows for the provision of an agricultural shed as exempted development subject to the limitations set down in Column 2.

The structure is not located within 100m of any third party dwellings whose consent would be required for the structure to be exempt and the building complies with the conditions in terms of height, size, materials and distance from the public road.

The proposed shed is intended for storage of agricultural machinery and equipment and accords with Class 9 which applies to structures used solely for the purpose of agriculture or forestry (but excluding the housing of animals or storing of effluent).

However, as per the report of the Area Engineer the development raises concerns that, notwithstanding the use of the shed for storage of farm machinery rather than housing animals, concerns remain regarding impacts on road usage and road safety. For these reasons Article 9(1)(a)(iii) of the Planning and Development Regulations 2001, as amended, applies and the development is deemed to be development and not exempted development.

Conclusion

Having regard to Sections 3 and 4 of the Planning and Development Act, 2000, as amended, and to Articles 6(1) and 9(1)(a)(iii) of the Planning and Development Regulations 2001, as amended, and Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended, the proposed agricultural shed is development and is not exempted development. Please issue a Declaration of Exemption accordingly.

A. D'Ileigh

Annie O'Keeffe Area Planner 10/07/2023



CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST	(Please tick $\sqrt{\ }$)
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:	1/
4 No. Copies of Site Layout Plan:	1
4 No. Copies Scaled Drawings of Development:	
€80 Application Fee:	V

FOR OFFICE USE ONLY

ADDITIONAL CHECKLICE

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) NORTON HOUSE, SKIBBERFEN, CO. CORK PRI ATZE
- 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.

POSTAL ADDRES	SS OF LAND OR ST SOUGHT:	RUCTURE FOR WH	IICH DECLARATION (
CASHEL, L	EAP, CO.	CORK	
QUESTION/DECL	ARATION DETAIL	S:	
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NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A – CONTACT DETAILS)

1.

TIM LAWLOR

(a) Floor area of existing/proposed structure(s):	EXISTING = 530 m2
	PROPOSED = 284 m2
(b) If a domestic extension is proposed, have	Yes No
any previous extensions/structures been	
erected at this location after 1 st October,	If yes, please provide floor areas (m ²) and
1964 (including those for which planning	previous planning reference(s) where applicable
permission has been obtained):	provides planning reference(s) where applicable
(c) If a change of use of land and/or building(s)	
is proposed, please state the following:	
is proposed, preuse state the ronowing.	
Existing/previous use	Proposed use
Existing previous use	Troposed use
√3/×	
(d) Are you aware of any enforcement	Yes No V
proceedings connected to this site?	
	If yes, please state relevant reference number(s):
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4.

APPLICATION DETAILS:

No

have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes

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)	TIMOTHY LAWLOR
Date	10.6.2023

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	on for my sensitive personal data	submitted to the Pl	lanning Authority to be processed
for the purpose state	d above.		
G: 1			

Signed	TIMOTHY LAWLOR	,
Date	10.6.2023	

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: 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.

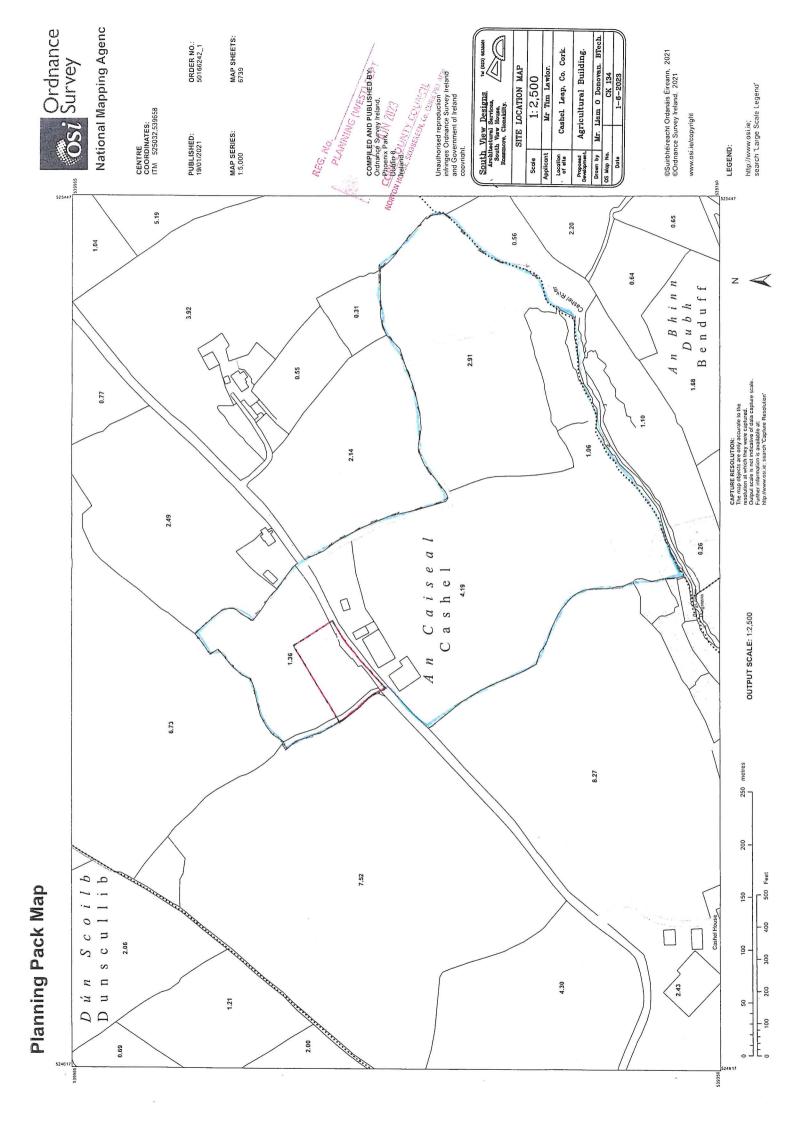
The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be 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.

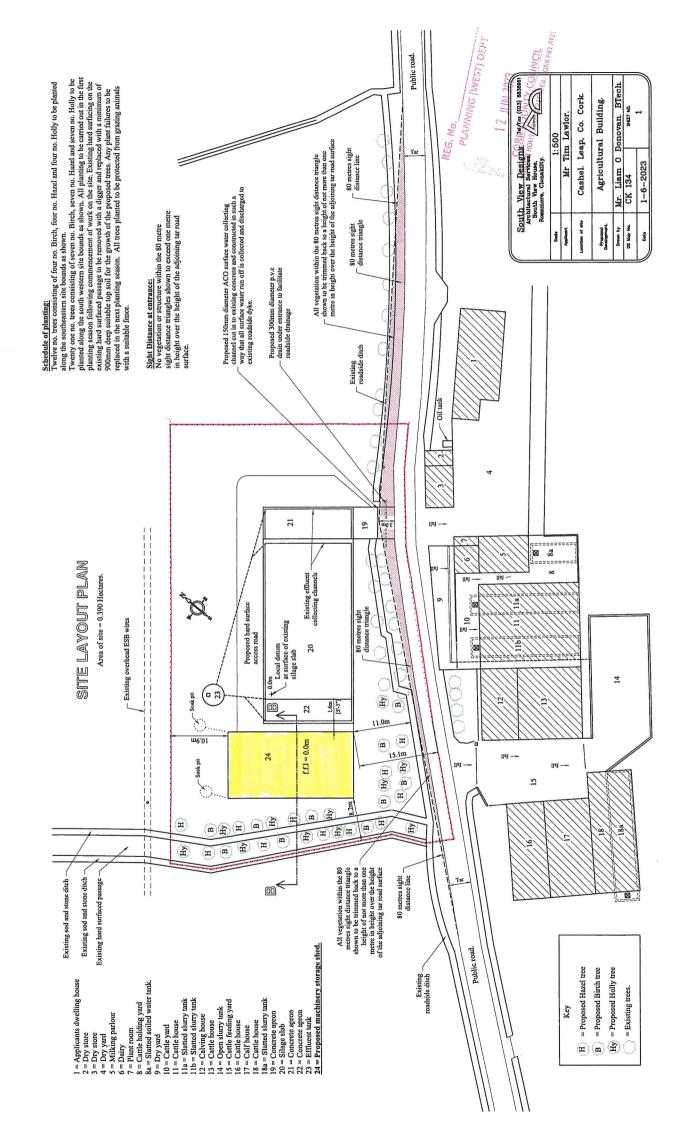
9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the <u>Planning and Development Acts 2000</u>, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	Lian O Ronovas
Date	1-6-2023

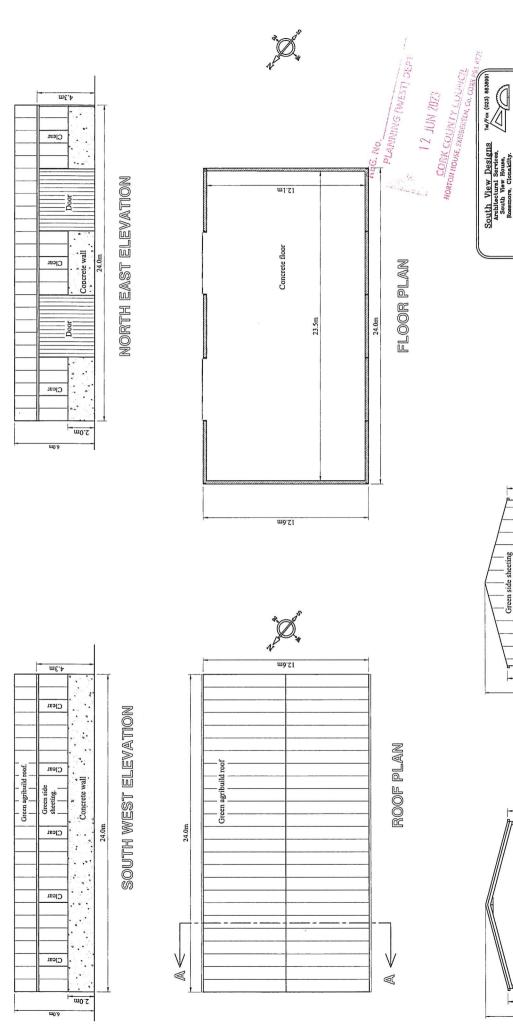


Ordnance Osi Survey National Mapping Agenc MAP SHEETS: CK133 CK134 Mr. Liam O Donovan. Brech. ORDER NO.: 50166242_1 Cashel Leap, Co. Cork. Agricultural Building. COMPILED AND PUBLISHED BY: Ordnance Survey Ireland, Phoenix Park, Dublin 8. Ireland. SITE LOCATION MAP Mr Tim Lawlor. 1:10,560 Unauthorised reproduction infringes Ordnance Survey Ireland South View Designs Architectural Services, South View House, Resembre, Clonakilty. http://www.osi.ie; search 'Large Scale Legend' CENTRE COORDINATES: ITM 525032,539658 MAP SERIES: 6 Inch Raster 6 Inch Raster PUBLISHED: 19/01/2021 Location of alte LEGEND: Scale Ordnance Supplificand **OUTPUT SCALE: 1:10,560** 900 2,125 Feet 675 Site Location Map IL (D (D) Not Offices Hood 450 225 0 425

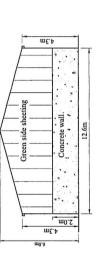


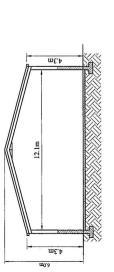


PROPOSED MACHINERY STORAGE SHED









VERTICAL SECTION A-A

NORTH WEST AND SOUTH EAST ELEVATIONS

Mr. Liam 0 Donovan. BTech.

1-6-2023

Date

Cashel. Leap, Co. Cork. Agricultural Building.

Location of site

Sode

Proposed Development. Drawn by OS Map No.

Mr Tim Lawlor.

Tel/Fax (023) 883891

SITE SECTION

