



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Declan Barry
C/o Niall Geoghegan
Ballybeg
Ennis
Co. Clare**

12th April, 2024

Section 5 referral Reference R24-32 – Declan Barry

Is the construction of a slatted unit, hay/straw store at Cloongowna, Kilnamona, Co. Clare development and if so, is it exempted development?

A Chara,

I refer to your application received on 22nd March 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie

Mise, le meas

**Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate**

**An Roinn Pleanála
An Stúirthóireacht Forbairt Gheilleagrach**

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department
Economic Development Directorate**

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No:

83412

Reference Number:

R24-32

Date Referral Received:

22nd March 2024

Name of Applicant:

Declan Barry

Location of works in question:

Cloongowna, Kilnamona, Co. Clare

Section 5 referral Reference R24-32 – Declan Barry

Is the construction of a slatted unit, hay/straw store at Cloongowna, Kilnamona, Co. Clare development and if so, is it exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 6 and Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 22nd March 2024.

AND WHEREAS Clare County Council has concluded:

- (a) The development of the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare, constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute "*development*" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development of the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare, is not exempted development having regard to Article 9 (iv) and (viii) of the Planning and Development Regulations 2001, as amended, as the development would interfere with the character of the landscape and the views in the area, the preservation of which is an objective of a development plan under CDP14.2 "Settled Landscapes", and the development would also consist of the use and extension of the existing unauthorised road serving the site.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, Co. Clare is **considered development** which is **not exempted development**.

Signed: 

GARETH RUANE SENIOR EXECUTIVE PLANNER 

Date: 12th April, 2024

**DECLARATION ISSUED UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)**

Reference No.: R24-32



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R24-32

Is the construction of a slatted unit, hay/straw store at Cloongowna, Kilnamona, Co. Clare development and if so, is it exempted development?

AND WHEREAS, Declan Barry has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

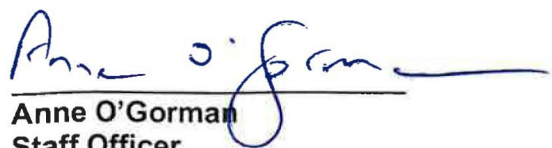
- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 6 and Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 22nd March 2024.

And whereas Clare County Council has concluded:

- (a) The development of the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare, constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development of the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare, is not exempted development having regard to Article 9 (iv) and (viii) of the Planning and Development Regulations 2001, as amended, as the development would interfere with the character of the landscape and the views in the area, the preservation of which is an objective of a development plan under CDP14.2 “Settled Landscapes”, and the development would also consist of the use and extension of the existing unauthorised road serving the site.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, Co. Clare constitutes development which is not exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

A handwritten signature in blue ink, appearing to read "Anne O'Gorman", with a horizontal line drawn underneath it.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

12th April, 2024

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT 1

FILE REF:	R24-32
APPLICANT(S):	Declan Barry
REFERENCE:	Whether the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare is not development and is or is not exempted development.
LOCATION:	Cloongowna, Kilnamona, County Clare
DUE DATE:	18 th April 2024

Site Location

The proposal site is located in a rural area that is 2.5km south east of Inagh. It is located to the east of Rosconnell Lough and is served by the LT82861 local tertiary road and a private agricultural road. It comprises of corner of an agricultural field that rises in a northerly direction. It is a locally elevated site and the main views towards same are from the road to the south of the site. Views are also available towards the site from the western side of the Lough. From the west, due to the elevated nature of the site, it does not benefit from a visual backdrop of lands in its environs. I inspected the site on the 04th April 2024.

Recent Planning History

Onsite

None.

Environs

03-2173 – GRANTED - Darren & Sharon Redington – to construct dwelling house and garage with effluent treatment system.

20-367 – Granted - Michael Barry - to construct a dwelling house and garage, with effluent treatment system and associated site works, accessed by means of an existing private road.

21-818 – Granted - Michael Barry - to revise the site boundaries previously granted under Ref: P20/367.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Declan Barry who states that he is seeking a Section 5 Declaration as to whether

the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare is or is not development and is or is not exempted development. The applicant is the stated owner of the site.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

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 structures or other land.

‘Works’ are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

“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.

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 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 3 opposite the mention of that class in the said column 1.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 6

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

- 1. No such structure shall be used for any purpose other than the purpose of agriculture.*
- 2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*

3. *Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution*
4. *No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*
5. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*
6. *No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*
7. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, 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.*

Under Article 9 (1) of the same Regulations, 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 –*
 - (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 compromise 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,*

- (iii)(a) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
- (iv) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.”*
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*
- (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*
- (xi) obstruct any public right of way,*
- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located*

within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare is or is not development and is or is not exempted development.

Particulars of Proposal

The particulars of the proposal and site are set out below:

Proposed Slatted Shed

- Height 5.936 metres & 5.621 metres
- Proposed Floor Area
 - Slatted Unit 129.75 sqm
 - Hay/straw shed 110.90 sqm
- Proposed Tank Storage Volume 104.81 cbm
- Distance from road Greater than 10 metres
- Distance from dwellings Greater than 100 metres

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 6

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

It is proposed that the structure will be used as a slatted shed.

1. *No such structure shall be used for any purpose other than the purpose of agriculture.*

The use proposed is agricultural.

- 2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*

The 300 sqm threshold is not exceeded in this instance.

- 3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.*

Details of the proposed tanks are set out in the drawings submitted. The slatted tank must be in line with standards as set by the Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government.

- 4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*

The proposed development is in excess of 10 metres from the public road.

- 5. No such structure within 100 metres of any public road shall exceed 8 metres in height.*

This height threshold is not exceeded in this instance.

- 6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*

The proposed development would not be within 100 metres of existing dwellings that are not in the applicants ownership.

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

Standard agricultural cladding proposed.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, 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.

The storage shed would be for agricultural purposes.

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.*

The storage shed would be for agricultural purposes for the storage of hay/straw.

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.*

The floor area threshold would not be exceeded.

3. *No such structure shall be situated within 10 metres of any public road.*

The proposed development would be in excess of 10 metres from the public road.

4. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*

The height threshold would not be exceeded.

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.*

The proposal would be in excess of 100 metres from dwellings.

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

Standard agricultural cladding proposed.

Article 9 of the Planning and Development Regulations 2001, as amended

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

- (a) *if the carrying out of such development would –*
 - (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

Not applicable.

- (ii) *consist of or compromise 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,*

Not applicable.

- (iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*

Site is served by an existing agricultural access point.

- (iii)(a) *endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

Standard agricultural cladding proposed.

- (iv) *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.*

This site is located within a Settled Landscape. Having regard to the elevated and exposed nature of the site, the views available towards the site from the south east and west, the bulk, scale and massing of the development as proposed, and the extent of groundworks required, I consider that proposed development would interfere with the character of the landscape and the views in the area, the preservation of which is an objective of a development plan under CDP14.2.

- (vii) *consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

Not applicable.

- (viiA) *consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance*

with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

Not applicable.

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

The proposal site is located circa 8km from Pouldatig Cave SAC. Having regard to the nature and scale of the proposed development and the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site. An appropriate assessment screening report and determination is attached to this report.

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."

The proposed development would not be likely to have an adverse impact on an area designated as a natural heritage area.

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

Available satellite imagery, and previous knowledge of the area, indicates that the existing agricultural access road is a relatively recent addition and did not comprise the improvement of an existing way. The proposal would therefore be accessed from an existing agricultural road which does not constitute exempted development and does not have the benefit of planning permission. Therefore, the proposal would consist of the further extension of this unauthorised road through the provision of an access to the site, and would also result in an alteration of its use. Therefore, the proposal would not be in compliance with the requirements of Article 9(viii) of the Planning and Development Regulations 2001, as amended.

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

Not applicable.

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

Not applicable.

(xi) obstruct any public right of way,

Not applicable.

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Not applicable.

Conclusion

Having regard to the above it is considered that the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare constitutes both 'works' and 'development'. However regard has also been had to Class 6 and of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended. Furthermore, I have had regard to Article 9 (iv) and (viii) of the Planning and Development Regulations 2001, as amended, and it has been determined that construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare is development and is not exempted development.

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare, is or is not development and is or is not exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended

- (c) Class 6 and Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 22nd March 2024.

And whereas Clare County Council (Planning Authority) has concluded:

- (a) the development of the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare, constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "*development*" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development of the construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare, is not exempted development having regard to Article 9 (iv) and (viii) of the Planning and Development Regulations 2001, as amended, as the development would interfere with the character of the landscape and the views in the area, the preservation of which is an objective of a development plan under CDP14.2 "*Settled Landscapes*", and the development would also consist of the use and extension of the existing unauthorised road serving the site.

Now therefore Clare County Council (Planning Authority) hereby decides that construction of a slatted unit and a hay/straw store at Cloongowna, Kilnamona, County Clare, is development and is not exempted development.


Executive Planner
Date: 10th April 2024


Senior Executive Planner
Date: 10/04/24 .

Clare County Council Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

Table 1: Project Details


Planning File Reference	R24-32
Applicant Name	Barry
Development Location	Cloongowna, Kilnamona
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
Slatted shed & straw/hay storage shed	
	

Table 2: Identification of European sites which may be impacted by the proposed development.

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

Table 2 (a): European Sites within 15km of Applicant Site

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Pouldatig Cave SAC	Lesser Horseshoe bat (<i>Rhinolophus hipposideros</i>)	8
1 Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	No
2 Impacts on terrestrial habitats and species.	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	No
3 Impacts on designated marine habitats and species.	<i>Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	No
4 Impacts on birds in SPAs	<i>Is the development within 1km of a Special Protection Area</i>	No
5 Indirect effects	<i>Is the development, in combination with other existing or proposed developments likely to impact</i>	No impacts envisaged

¹ European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

² European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

		<p><i>on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i></p>	
--	--	--	--

Appropriate Assessment Screening Determination	
Planning File Reference	R24-32
Proposed Development	Slatted shed & straw/hay storage shed
Development Location	Cloongowna Kilnamona
European sites within impact zone	As per report
Description of the project	
Slatted shed & straw/hay storage shed	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
Water quality General disturbance Loss of bat habitat	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Distance from designations Nature of works No loss of bat habitat No direct links	
Documentation reviewed for making this statement	
NPWS website Plans and particulars received GIS mapping database	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s)³	
(b) There is no potential for significant effects to European Sites³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out⁴	

³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance

(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	
Completed By	John O'Sullivan
Date	10 th April 2024

document is available from http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

⁵ The proposed development must either be refused planning permission or alternatively an 'Appropriate Assessment' (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an 'appropriate assessment' should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.



Views from the site













COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Declan Barry
C/o Niall Geoghegan
Ballybeg
Ennis
Co. Clare

25/03/2024

Section 5 referral Reference R24-32 – Declan Barry

Is the construction of a slatted unit, hay/straw store at Cloongowna, Kilnamona, Co. Clare development and if so, is it exempted development?

A Chara,

I refer to your application received on 22nd March 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúthóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2





Clare County Council
Aras Contae an Chláir
New Road
Ennis
Co Clare

22/03/2024 15:22:16

Receipt No. : L1CASH/0/362217
***** REPRINT *****

DECLAN BARRY
C/O NIALL GEOGHEGAN
BALLYBEG, ENNIS, CO CLARE
REF. R24-32



SECTION 5 REFERENCES	80.00
GOODS	80.00
VAT Exempt/Non-taxable	

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change : 0.00

Issued By : L1CASH - Colm Murphy
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No.0033043E

**CLARE
COUNTY COUNCIL**

22 MAR 2024

Received
COMHAIRLE
Planning Section

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

P07 Request for a Declaration on Development and Exempted Development (March 2017)

P07

Planning Department,
Economic Development Directorate,
Clare County Council,
New Road, Ennis,
Co. Clare.
V95DXP2

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



Comhairle Contae an Chláir
Clare County Council

R24-32

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))**

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1. CORRESPONDENCE DETAILS.	
(a) Name and Address of person seeking the declaration	Declan Barry Cloongowna, Kilnamona Co. Clare
(b) Telephone No.:	
(c) Email Address:	None
(d) Agent's Name and address:	Niall Geoghegan Ballybeg Ennis Co. Clare

2. DETAILS REGARDING DECLARATION BEING SOUGHT

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT
Note: only works listed and described under this section will be assessed.

Sample Question: *Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?*

Is the construction of a slatted unit, hay/straw store at Cloongowna, Kilnamona, Co. Clare.
development and if so is is exempted development ?

(b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

The applicant is looking to build a small slatted unit, the slatted unit proposed is less than 200 sq. meters, it is more that 100 meters away from any other cattle housing

The applicant is looking to build hay/straw store which is less than 300 sq. meters.

There is no farm sheds within 100 meters of the proposed structure.

The applicant will be housing 10 cows and 12 calves for the winter period

Please see attached land maps showing 13.2 hetares.

(c) List of plans, drawings etc. submitted with this request for a declaration:

(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

(1) Drawings of slatted unit (scale 1:100/1:200) (2) Site layout 1:500

(3) Site Map 1:2500 (4) land map 1:10560

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	<p>Cloongowna</p> <hr/> <p>Kilnamona</p> <hr/> <p>Co Clare</p> <hr/>
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	<p>No</p> <hr/> <hr/> <hr/>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<p>The applicant is the landowner</p> <hr/> <hr/>
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	<p>The applicant is the landowner</p> <hr/> <hr/> <hr/>
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<p>The applicant is the landowner</p>
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	<p>No</p>
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	<p>No</p>
(h) Date on which 'works' in question were completed/are likely to take place:	<p>july 2024</p>

SIGNED:  (AGENT)

DATE: 22/03/2024

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

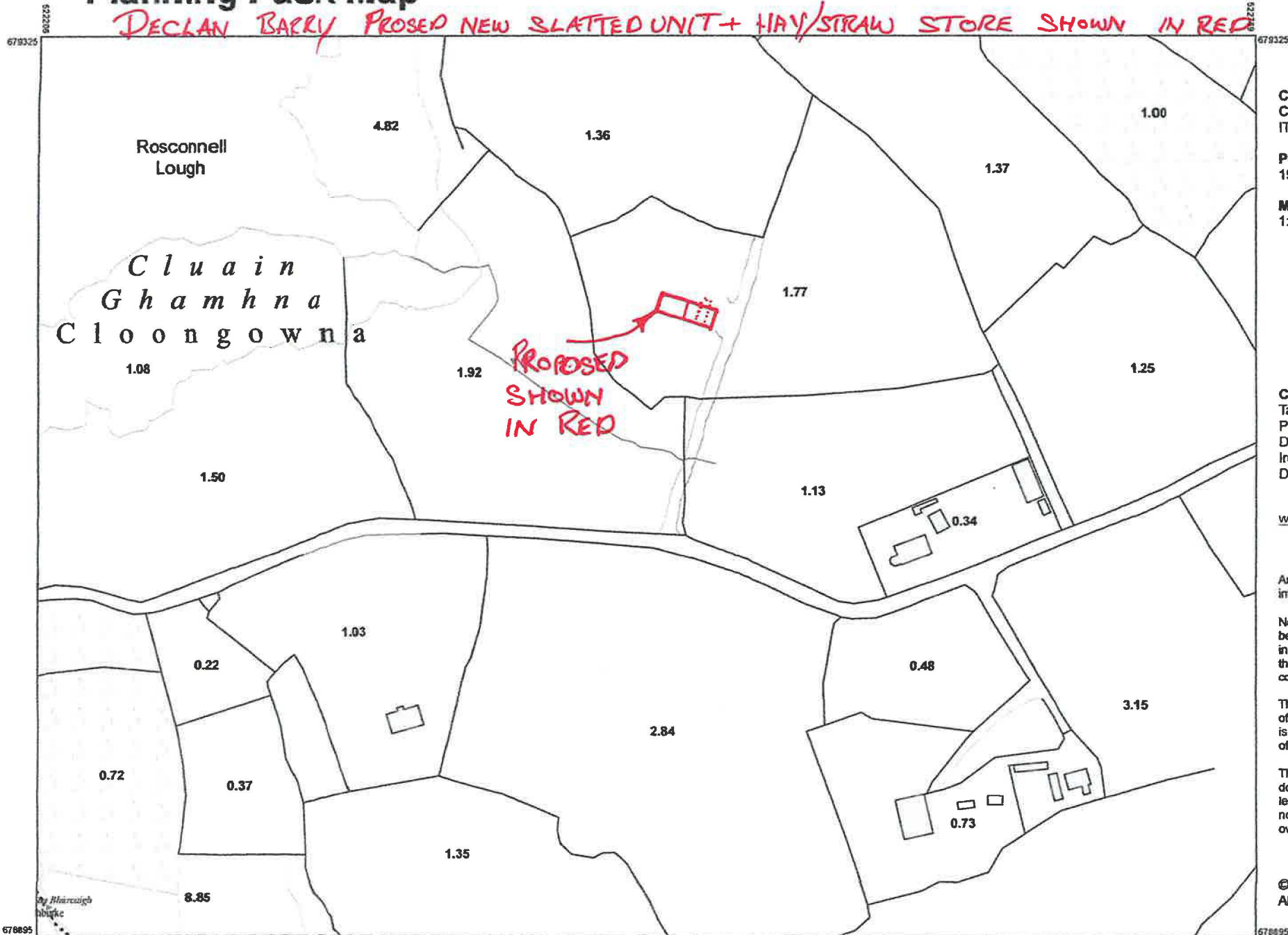
Date Received:	.....	Fee Paid:	.....
Date Acknowledged:	.....	Reference No.:	.....
Date Declaration made:	.....	CEO No.:	.....
Decision:	.....	

Planning Pack Map

DECLAN BARRY PROSED NEW SLATTED UNIT + HAY/STRAW STORE SHOWN IN RED



Tailte Éireann



CENTRE COORDINATES:
ITM 522498,679110

PUBLISHED: 19/03/2024
ORDER NO.: 50389657_1

MAP SERIES: 1:5,000
MAP SHEETS: 4261

COMPILED AND PUBLISHED BY:
Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4

www.tailte.ie

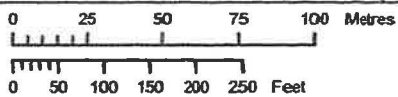
Any unauthorised reproduction infringes Tailte Éireann copyright.

No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owner.

The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

This topographic map does not show legal property boundaries, nor does it show ownership of physical features.

©Tailte Éireann, 2024.
All rights reserved.



OUTPUT SCALE: 1:2,500

CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: www.tailte.ie, search 'Capture Resolution'

LEGEND:
To view the legend visit www.tailte.ie and search for 'Large Scale Legend'



Site Location Map

DECLAN BARRY PROPOSED STRUCTURE IN RED LANDHOLDING IN BLUE



Tailte
Éireann

CENTRE
COORDINATES:
ITM 522498,679110

PUBLISHED: 19/03/2024 ORDER NO.: 50389657_1

MAP SERIES: 6 Inch Raster MAP SHEETS: CE032

SPREADLANDS
IN GREEN

COMPILED AND PUBLISHED BY:
Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4

www.tailte.ie

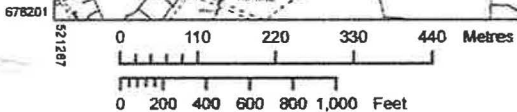
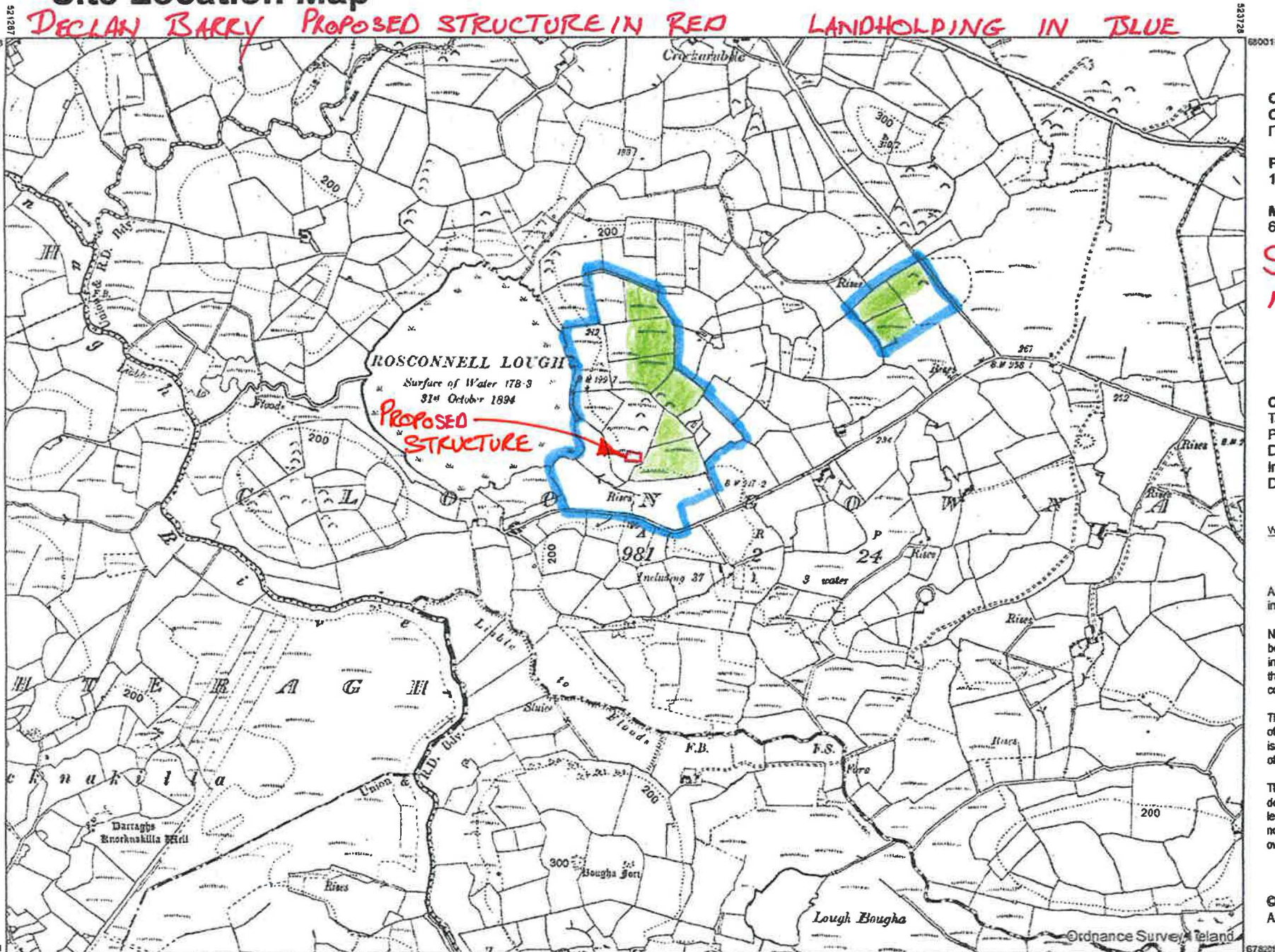
Any unauthorised reproduction
infringes Tailte Éireann copyright.

No part of this publication may
be copied, reproduced or transmitted
in any form or by any means without
the prior written permission of the
copyright owner.

The representation on this map of
a road, track or footpath
is not evidence of the existence
of a right of way.

This topographic map
does not show
legal property boundaries,
nor does it show
ownership of physical features.

©Tailte Éireann, 2024.
All rights reserved.



OUTPUT SCALE: 1:10,560

CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
www.tailte.ie; search 'Capture Resolution'

LEGEND:
To view the legend visit
www.tailte.ie and search for
'Large Scale Legend'



ROOF

"TEGRAL AGRIBUILD 2000" STEEL CLADDING OR
FIBRE-CEMENT CLADDING ON 150MM x 75MM TREATED TIMBER
PURLINES WITH D . P . C . STRIP
COVERING ON DIPPED STEEL STANCHIONS TO COMPLY
WITH DEPT OF AGRICULTURE SPECIFICATION S.123, S.101 & 102

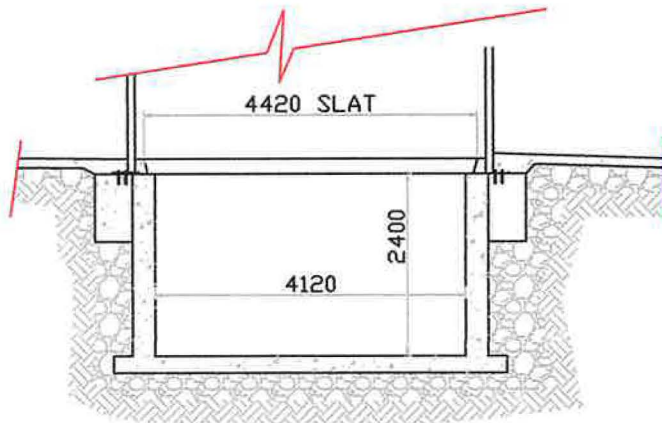
WALLS

TO CONSIST OF EITHER 225MM CONC BLOCK WALL CONSTRUCTION
PLASTERED BOTH INTERNALLY & EXTERNALLY OR OF 225MM
SHUTTERED SOLID CONC WALL WITH 28 DAY CRUSHING
STRENGTH OF 37 N/MM² TO COMPLY WITH DEPT OF AGRICULTURE
S.101, S.102 & S.123

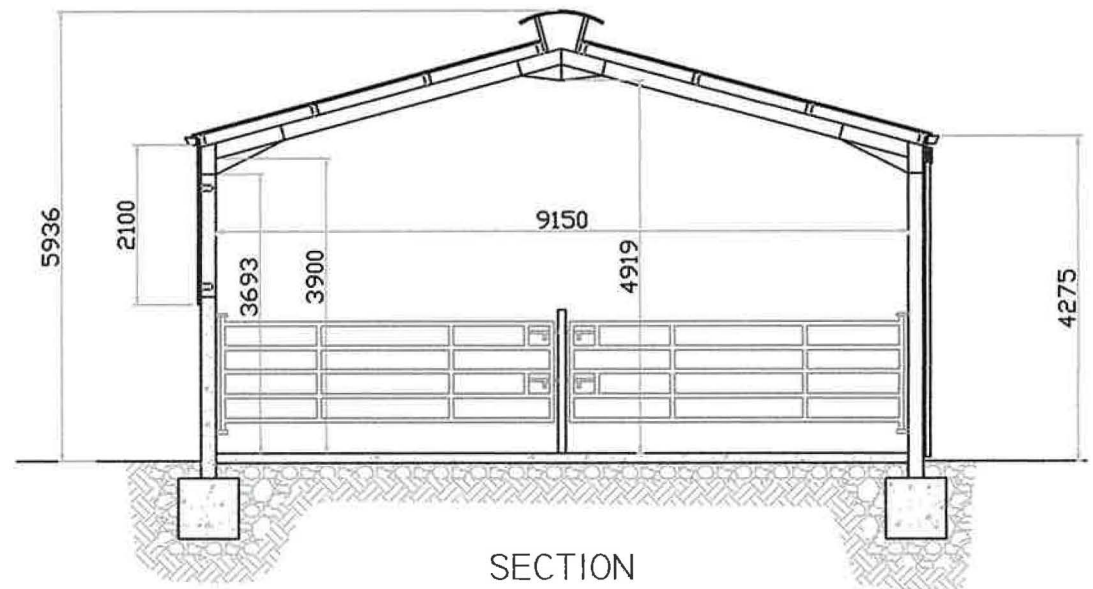
FLOOR

125MM CONC SLAB WITH 28 DAY CRUSHING STRENGTH OF 37 N/MM²
ON 50MM SAND/DUST BLINDING ON 150MM HARDCORE.
TO COMPLY WITH DEPT OF AGRICULTURE S.101 , S.123

FOUNDATIONS TO DEPARTMENT SPEC. S.101 & S.123
TO ENGINEERS DETAIL.

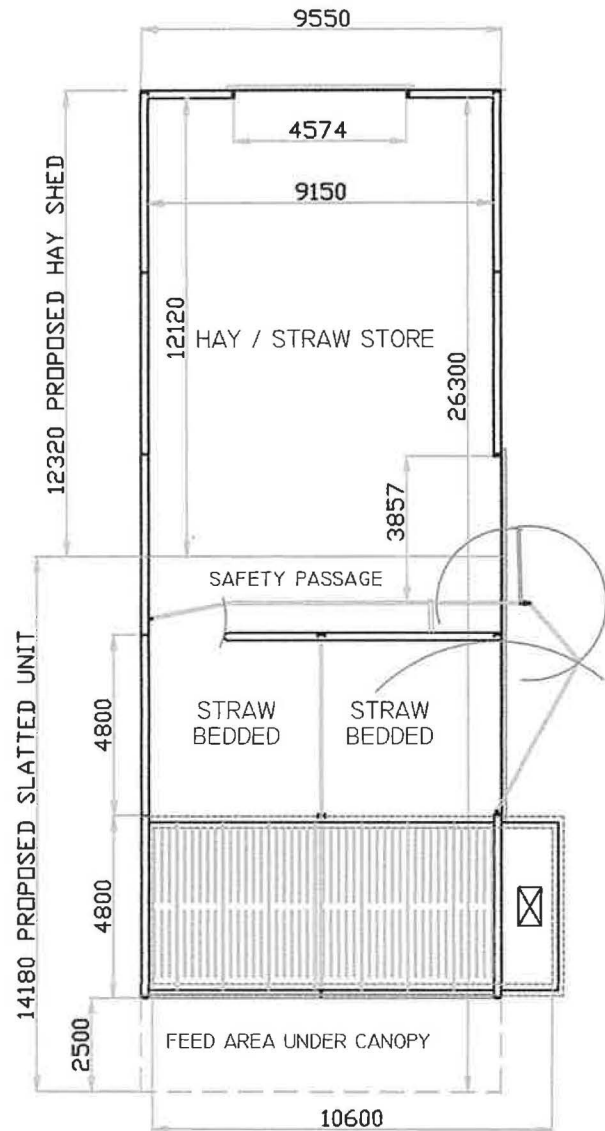


LOCAL SECTION OF UNDERSLAT TANK

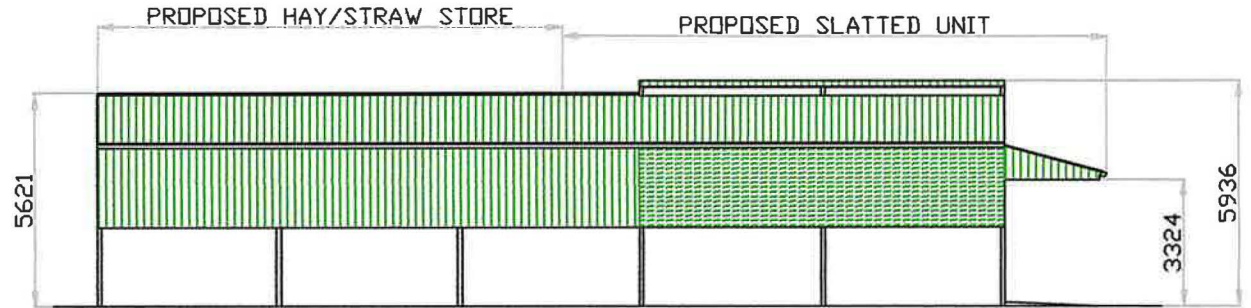


SECTION

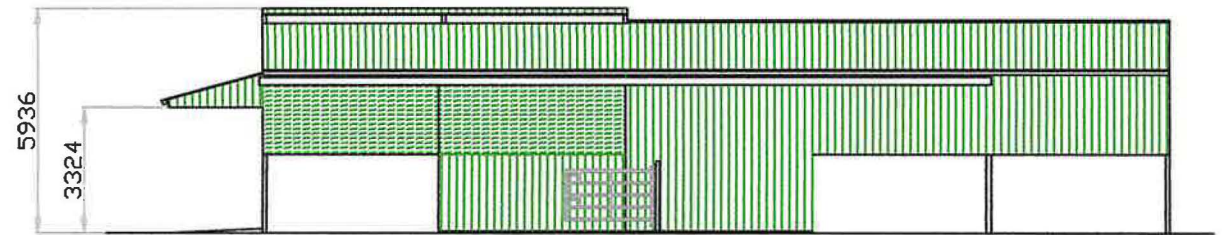
DECLAN BARRY	AT CLOONGOWNA, KILNAMONA, Co. CLARE.	ALL DIMENSIONS IN MILLIMETERS UNLESS OTHERWISE STATED
PROPOSED NEW CONSTRUCTION OF OF A SLATTED UNIT, HAY / STRAW STORE & ASSOCIATED SITE WORKS.	SCALE: 1 : 100 DATE: SEPT 2023	DRG'S PREP. BY : NIALL GEORGHEGAN ADDRESS: BALLYBEG, ENNIS. MOBILE : 087 2061697



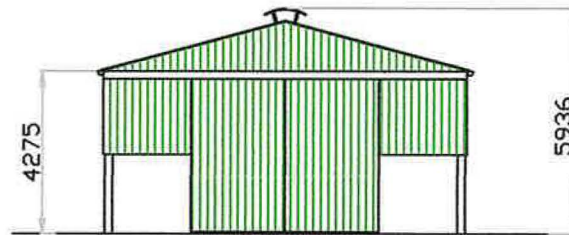
PLAN



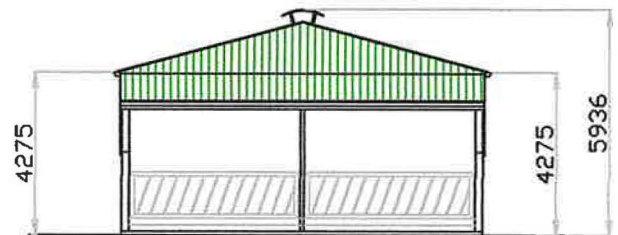
SOUTHERN ELEVATION



NORTHERN ELEVATION

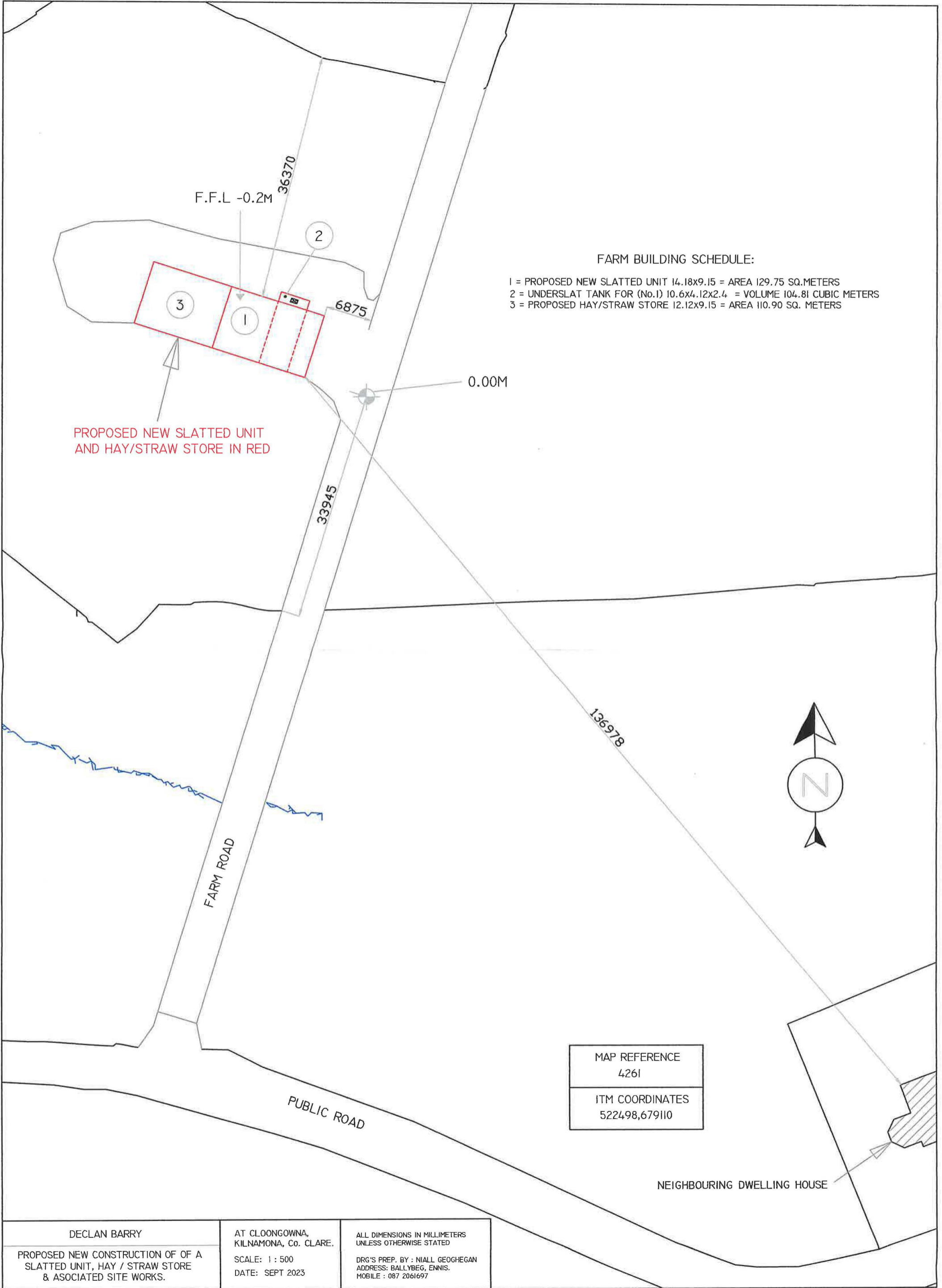


WESTERN ELEVATION



EASTERN ELEVATION

<p>DECLAN BARRY</p> <p>PROPOSED NEW CONSTRUCTION OF OF A SLATTED UNIT, HAY / STRAW STORE & ASSOCIATED SITE WORKS.</p>	<p>AT CLOONGOWNA, KILNAMONA, Co. CLARE.</p> <p>SCALE: 1 : 200</p> <p>DATE: SEPT 2023</p>	<p>ALL DIMENSIONS IN MILLIMETERS UNLESS OTHERWISE STATED</p> <p>DRG'S PREP. BY : NIALL GEOGHEGAN ADDRESS: BALLYBEG, ENNIS. MOBILE : 087 2061697</p>
---	--	---



FARM BUILDING SCHEDULE:

- 1 = PROPOSED NEW SLATTED UNIT 14.18x9.15 = AREA 129.75 SQ.METERS
- 2 = UNDERSLAT TANK FOR (No.1) 10.6x4.12x2.4 = VOLUME 104.81 CUBIC METERS
- 3 = PROPOSED HAY/STRAW STORE 12.12x9.15 = AREA 110.90 SQ. METERS

PROPOSED NEW SLATTED UNIT
AND HAY/STRAW STORE IN RED

MAP REFERENCE 4261
ITM COORDINATES 522498,679110

DECLAN BARRY	AT CLOONGOWNA, KILNAMONA, Co. CLARE.	ALL DIMENSIONS IN MILLIMETERS UNLESS OTHERWISE STATED
PROPOSED NEW CONSTRUCTION OF OF A SLATTED UNIT, HAY / STRAW STORE & ASSOCIATED SITE WORKS.	SCALE: 1 : 500 DATE: SEPT 2023	DRG'S PREP. BY : NIALL GEOGHEGAN ADDRESS: BALLYBEG, ENNIS. MOBILE : 087 2061697