



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

John Cotter
Enagh North,
Kilkishen,
Co. Clare

15th April, 2021

Section 5 referral Reference R21-16 – John Cotter

Whether the construction of an agricultural machinery storage shed at Enagh North, Kilkishen, Co. Clare is considered exempted development as defined by Section 5 of the Planning and Development Act 2000 (as amended).

A Chara,

I refer to your application received on 23rd March, 2021 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

Josephine Connors
Staff Officer
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



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

Reference No.: R21-16



Section 5 referral Reference R21-16

Whether the construction of an agricultural machinery storage shed at Enagh North, Kilkishen, Co. Clare is considered exempted development as defined by Section 5 of the Planning and Development Act 2000 (as amended).

AND WHEREAS, John Cotter 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 –

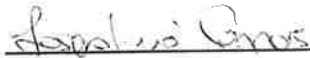
- a. Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- b. Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- c. Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended;
- d. The works as indicated in submitted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

And whereas Clare County Council has concluded:

- (a) The construction of an agricultural machinery storage shed 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 construction of an agricultural machinery storage shed is not exempted development having regard to Article 9(1)(a)(ii) of the Planning and Development Regulations 2000 (as amended).

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 an agricultural machinery storage shed at Enagh North, Kilkishen, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Josephine Connors
Staff Officer
Planning Department
Economic Development Directorate

15th April, 2021

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:

27455.

Reference Number:

R21-16

Date Referral Received:

13th January 2021

Name of Applicant:

John Cotter

Location of works in question:

Enagh North, Kilkishen, Co. Clare

Section 5 referral Reference R21-16 – John Cotter

Whether the construction of an agricultural machinery storage shed at Enagh North, Kilkishen, Co. Clare is considered exempted development as defined by Section 5 of the Planning and Development Act 2000 (as amended).

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 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.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of an agricultural machinery storage shed 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 construction of an agricultural machinery storage shed is not exempted development having regard to Article 9(1)(a)(ii) of the Planning and Development Regulations 2000 (as amended).

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 Garreth 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, Garreth Ruane, Senior Executive Planner, hereby declare that the construction of an agricultural machinery storage shed at Enagh North, Kilkishen, Co. Clare is considered development which is not exempted development

Signed:



GARRETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

15th April 2021

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R21-16
APPLICANT(S):	John Cotter
REFERENCE:	Whether the construction of an agricultural machinery storage shed at Enagh North, Kilkishen, County Clare is considered exempted development as defined by Section 5 of the Planning and Development Act, 2000 (as amended).
LOCATION:	Enagh North, Kilkishen, County Clare
DUE DATE:	19 th April 2021

Site Location

The proposal site is located on the west side of the L-3016 approximately 1.2km southwest of Kilkishen. The site comprises an agricultural field with is relatively level with the public road. The roadside boundary is delineated by a post and wire fence. There is no existing development on the site.

Recent Planning History

No recent planning applications on the proposal site or adjoining lands

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by John Cotter. He states that he is the legal owner of the site.

The applicant is seeking a Section 5 Declaration as to whether the construction of an agricultural machinery storage shed at Enagh North, Kilkishen, Co. Clare is considered exempted development as defined by Section 5 of the Planning and Development Act, 2000 (as amended).

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 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,

(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 an agricultural machinery storage shed at Enagh North, Kilkishen, Co. Clare is exempted development as defined by Section 5 of the Planning and Development Act 2000 (as amended).

Particulars of Proposal

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

- | | |
|--------------------------|-------------------------|
| • Height | 6 metres |
| • Proposed Floor Area | 131.56m ² |
| • Distance from road | Greater than 10 metres |
| • Distance from dwelling | Greater than 100 metres |

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.

A machinery shed is proposed and the gross floor area is 131.56m². The stipulated floor area is not exceeded in this instance.

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 applicant has stated that the shed will be used for the storage of agricultural machinery. The use as proposed is compliant with this condition of Class 9.

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.*

There are no existing buildings on the site.

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

The proposed structure is 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 is not 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.*

There are no dwellings or other uses listed above within 100m of the proposed structure

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

The drawings indicate block walls and slate roof.

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:

- (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 in this instance.

- (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,*

The applicant has indicated an agricultural entrance on the submitted drawings. Having inspected the site, there is no entrance at this location. The front boundary of the site is delineated by a post and wire fence. At the proposed entrance location there is a single line of wire which can easily be removed but there is no gate or gate posts and the ground conditions show no evidence that this location is regularly used as an access point to the field. I do not consider this to be an existing means to access to the public road. I further note that there is existing gated entrance to the field at the southern end of the landholding.

Having measured the surfaced carriageway at this location, I noted that it exceeds 4 meters in width.

Based on the foregoing, the proposed development cannot be considered 'exempted development'

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

Not applicable in this instance

- (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 nature of the proposed development, the nature of the proposal site and its receiving environs and the view available towards the site it is considered that development proposed would not interfere with the character of the local landscape.

- (v) *consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

This is not applicable in this instance.

- (vi) *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 in this instance

(vii)

- a. *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,*

The proposal site is not located within a zone of archaeological potential.

- b. *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 proposed development is not likely to have a significant effect on the integrity of a European Site. An appropriate assessment screening report and determination is attached to this report.

- c. *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."*

Not applicable to the proposed development

- (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,*

Not applicable in this instance

- (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,*

This is not applicable in this instance.

- (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,*

This is not applicable in this instance.

- (xi) *obstruct any public right of way,*

This is not applicable in this instance.

- (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.*

This is not applicable in this instance.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the construction of an agricultural machinery storage shed at Enagh North, Kilkishen, Co. Clare is considered exempted development as defined by Section 5 of the Planning and Development Act 2000 (as amended).

The Planning Authority in considering this referral had regard to:

- Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended;
- The works as indicated in submitted documents from the referrer.

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

- The construction of an agricultural machinery storage shed constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;

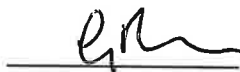
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) the said construction of an agricultural machinery storage shed is not exempted development having regard to Article 9(1)(a)(ii) of the Planning and Development Regulations 2000 (as amended).

Now therefore Clare County Council (Planning Authority), hereby decides that construction of an agricultural machinery storage shed at Enagh North, Kilkishen, Co. Clare is development and is not exempted development.



Executive Planner

Date: 12/04/21



~~A~~ Senior Executive Planner

Date: 14/04/21

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	R21-16
Applicant Name	John Cotter
Development Location	at Enagh North, Kilkishen, Co. Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
<p>Whether the construction of an agricultural machinery storage shed is considered exempted development</p> 	

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.

Having regard to the nature, scale and location of the proposed development and the lack of connectivity to European Sites, I consider the likely zone of impact of the project to be no greater than 3km.

Table 2 (a): European Sites within 3km 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)
Kilkishen House SAC	<u>Annex II species</u> Lesser Horseshoe Bat <i>Rhinolophus hipposideros</i> [1303]	1.2km

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?	No
2	Impacts on terrestrial habitats & species.	Is the development within 1km of a European site with terrestrial based habitats or species?	No
3	Impacts on designated marine habitats & species.	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	No
4	Impacts on birds in SPAs	Is the development within 1km of a Special Protection Area	No
5	Indirect effects	Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?	No in-combination effects likely No emissions likely

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.

Conclusion:

- If the answer to all of the above is *no*, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
- If the answer is *unknown* or *yes* proceed to Table 3 and refer to the relevant sections of Table 3.

Appropriate Assessment Screening Determination	
Planning File Reference	R21-16
Proposed Development	Whether the construction of an agricultural machinery storage shed is exempted development
Development Location	at Enagh North, Kilkishen, Co. Clare
European sites within impact zone	Kilkishen House SAC
Description of the project:	
Agricultural building for the storage of machinery	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
Kilkishen House SAC <u>Annex II species</u> Lesser Horseshoe Bat <i>Rhinolophus hipposideros</i> [1303]	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
No likely effects due to the nature, scale and location of the proposed development and lack of connectivity to European Sites	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
N/A – no likely effects	
Documentation reviewed for making this statement	
<ul style="list-style-type: none"> - County Development Plan (including Flood Maps, SEA & AA) - NPWS website - Documents received as part of the Section 5 declaration application 	
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	
(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	Caroline Balfe
Date	13/04/2021

³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no material 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 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 by 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.

R21-16



Indicated entrance location



Existing entrance at southern end of field.

X





COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

John Cotter
Enagh North,
Kilkishen,
Co. Clare

24th March 2021

Section 5 referral Reference R21-16 – John Cotter

Whether the construction of an agricultural machinery storage shed at Enagh North, Kilkishen, Co. Clare is considered exempted development as defined by Section 5 of the Planning and Development Act 2000 (as amended).

A Chara,

I refer to your application received on 23rd March 2021 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

Josephine Connors
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúirthóireacht 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



March, 2021

Planning Section
Clare Co Council
New Road Offices
Ennis, Co Clare



**Re: John Cotter exemption application for proposed agricultural storage shed
at Enagh North, Kilkishen, Co Clare**

Dear Sir/Madam,

On behalf of my client Mr. John Cotter please find enclosed the following:
Section 5 application form
Os Map 1:2500
Site Plan 1:500

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Duggan'.

John Duggan **BSc.FCABE**
Chartered Building Engineer / Registered Building Surveyor

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

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



**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	<u>John Cotter</u>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<u>John Duggan</u> <u>Ballyvonavaun, Doora, Ennis, Co. Clare.</u>

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 agricultural machinery storage shed at Enagh North, Kilkishen, Co Clare considered exempted development as defined by Section 5 of the planning & development act 2000 (as amended)

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

Is the construction of a agricultural machinery storage shed at Enagh North, Kilkishen, Co Clare considered exempted development as defined by Section 5 of the planning & development act 2000 (as amended)

- (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)

Rural Place Map (scale 1-2500)

Plans, Elevations, Section 1.100

Site Plan 1.500

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	<div>Enagh North, Kilkishen, Co Clare</div>
(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?	<div>No</div>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<div>Full owner</div>
(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>	<div>n/a</div>
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<div>Yes</div>
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	<div>No</div>
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	<div>No</div>
(h) Date on which 'works' in question were completed/are likely to take place:	<div>Mat / June 2021</div>

SIGNED: _____



DATE: 22-03-21 _____

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:.....			

Surveyed 1983
Revised 0
Levelled 1981

Rural PLACE Map



DESCRIPTION

MAP SCALES

1:2500
4442-A



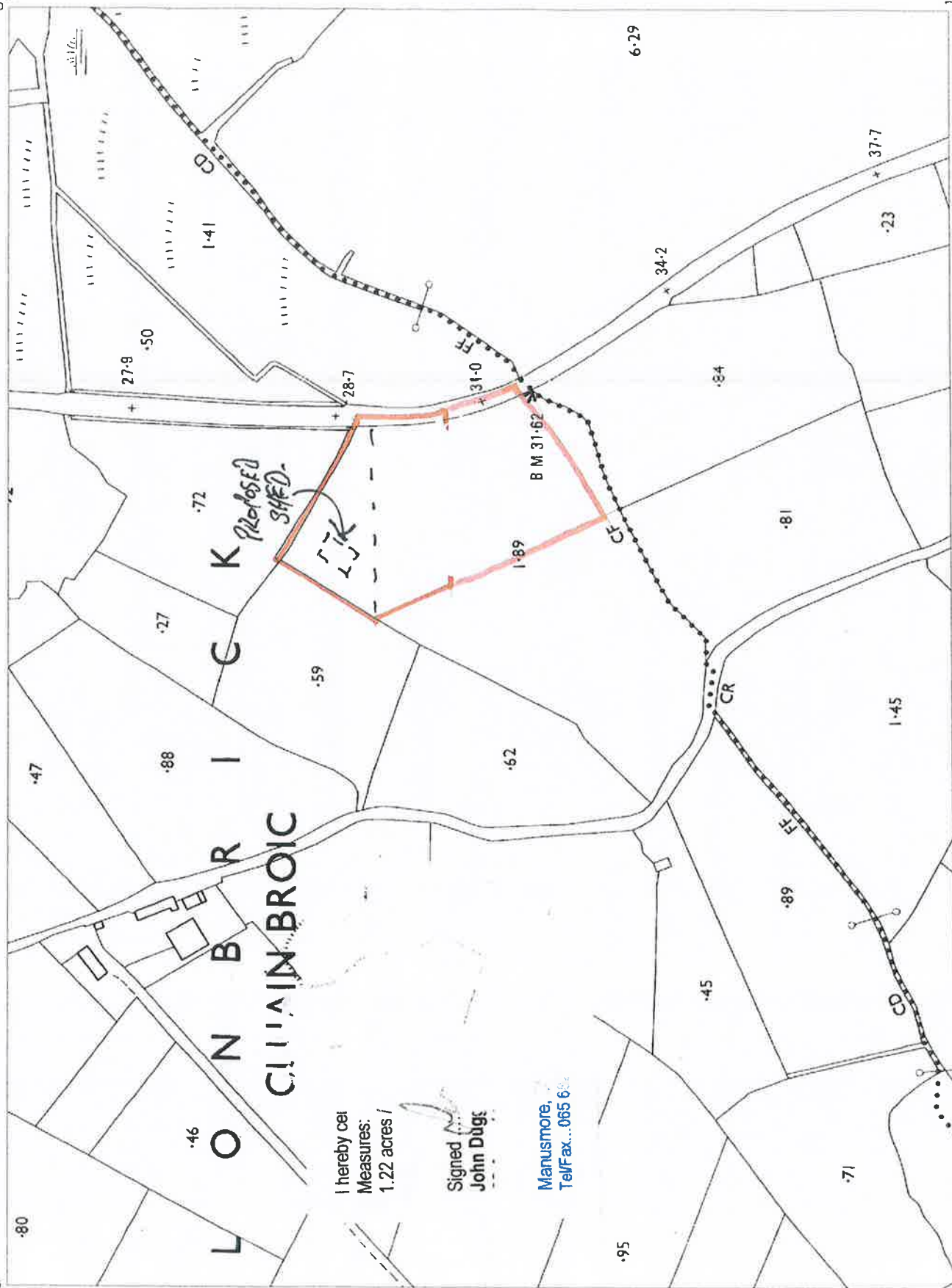
Produced by MacWest Maps, Limerick City,
On behalf of Ordnance Survey Ireland,
Phoenix Park, Dublin

Ní hionann bóthar, béalach nó cosán a bheith ar an
Marsall seo agus líneais ar chread síl.
The representation on this map of a road, track
or footpath is not evidence of the existence of
a right of way.

Dianchoic ar mhéaraíocht an lonáin ná ionad
de ghníthead roimh ré ó Súirbhís Stair-Mheánaic
Ordnála Éireann.

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Ordnance Survey Ireland.

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© Government of Ireland, 2001



I hereby cet
Measures:
1.22 acres /

Signed
John Dugan

Manusmore,
Tel/Fax...065 684

Scale:— 1:2500
Scála:— 1:2500

100 50 0 100 200 Metres
200 100 0 200 Feet

Plot Ref. No. 448_1_1
Plot Date 13-AUG-2001

Extent of applicants lands in
the vicinity of the proposed
agricultural shed (outlined Blue)
Folio CE 33621F = 0.89 Hectares

Proposed boundary
hedging / trees

Proposed
Agricultural
Storage Shed

Existing Open
Drain

Agricultural
Entrance

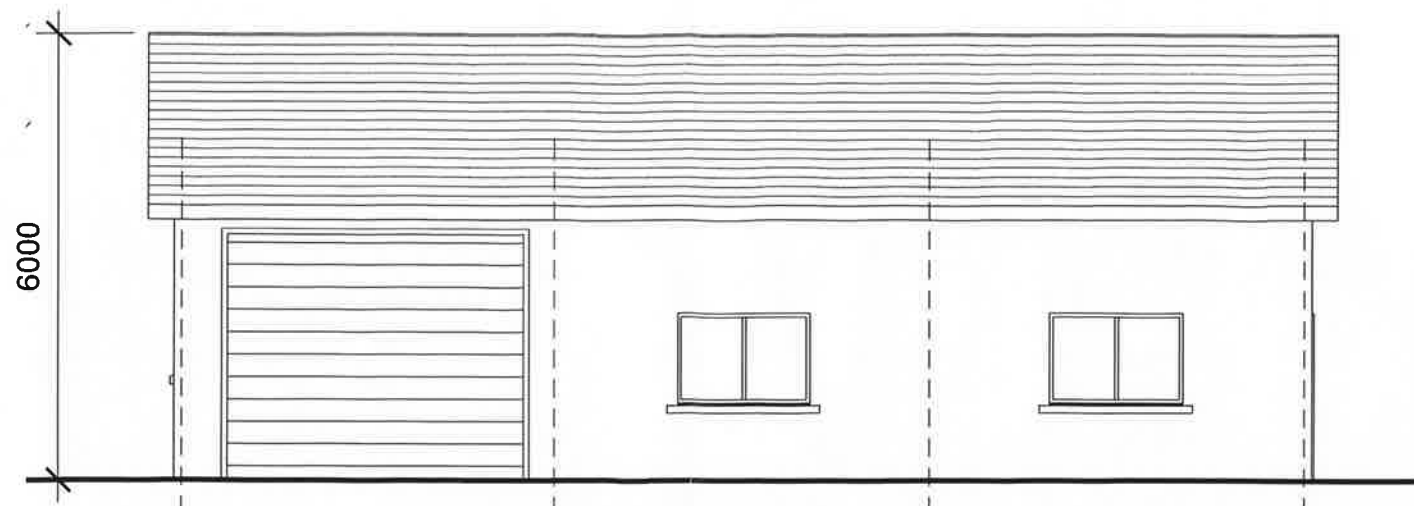
c55m+/-

Public Road

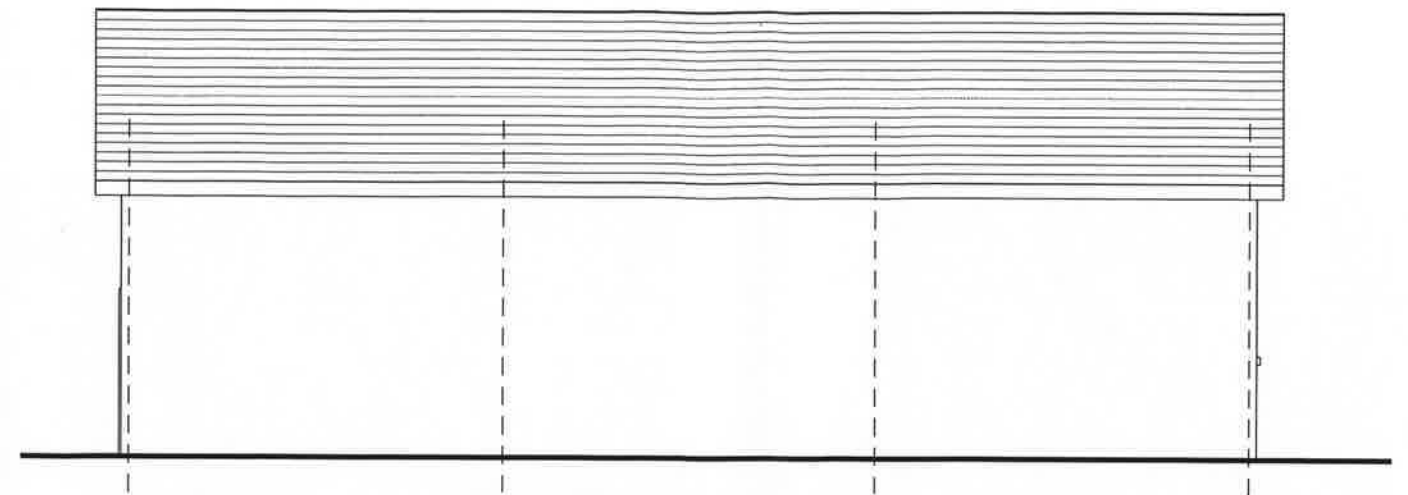


Site Plan 1:500

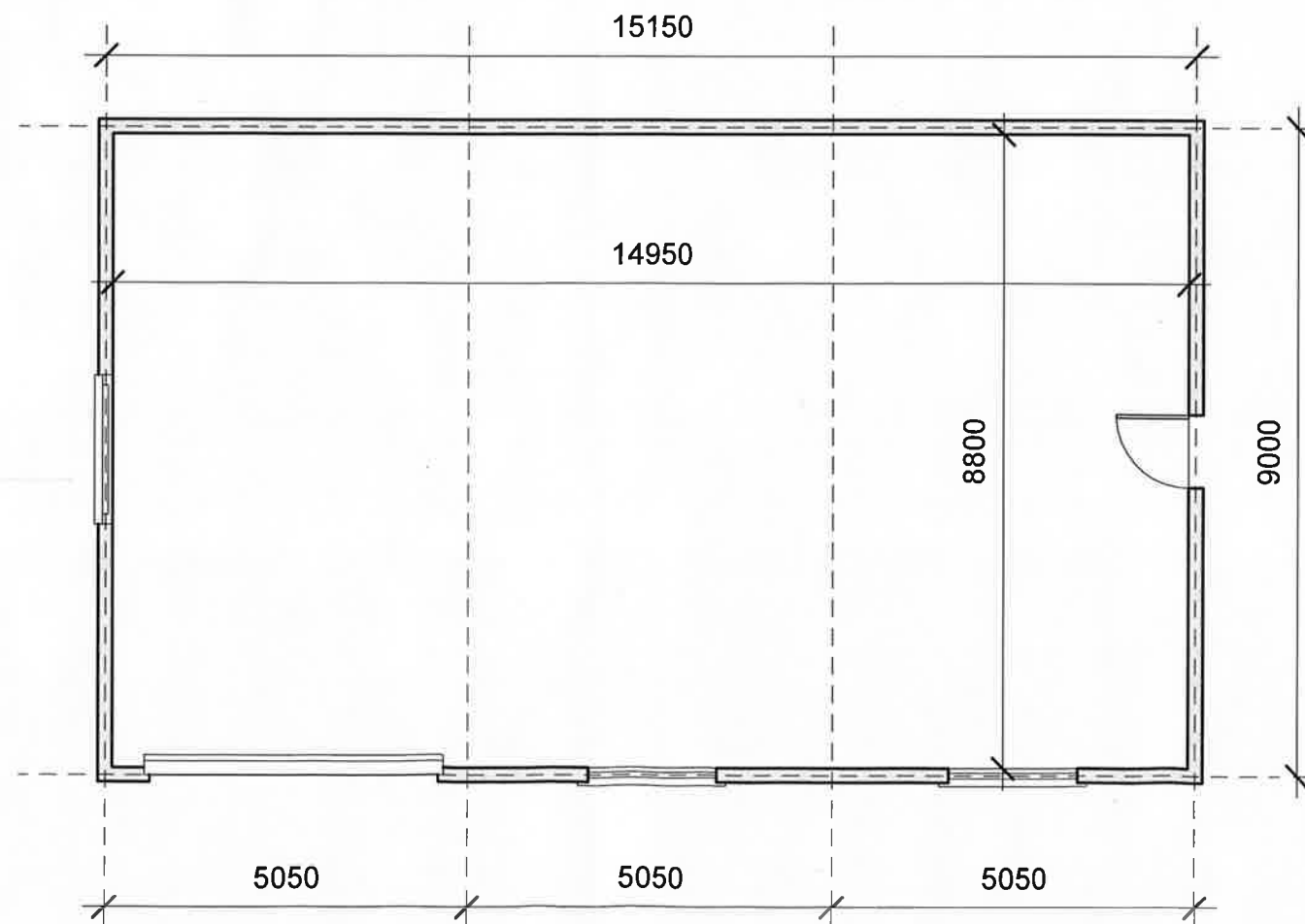
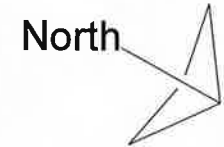
JOHN COTTER ENAGH NORTH, KILKISHEN, CO CLARE



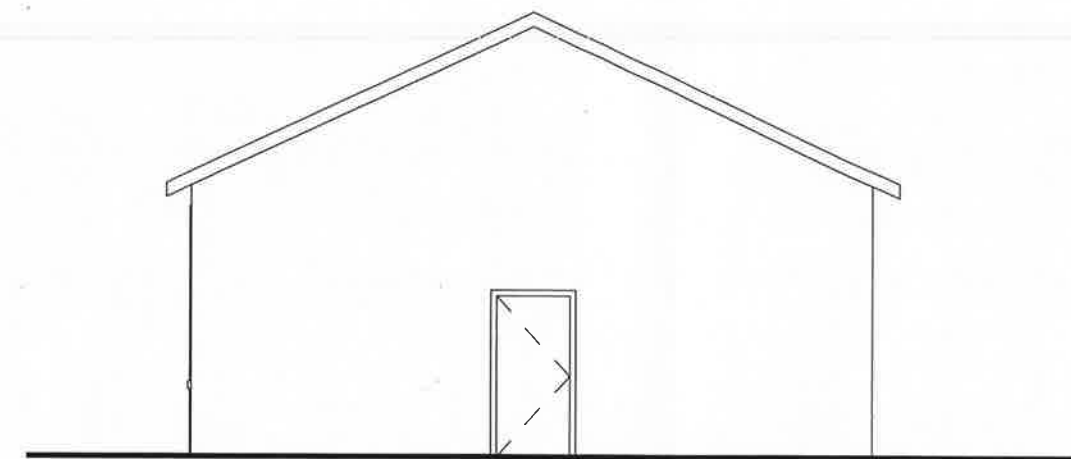
East Elevation @ 1.100



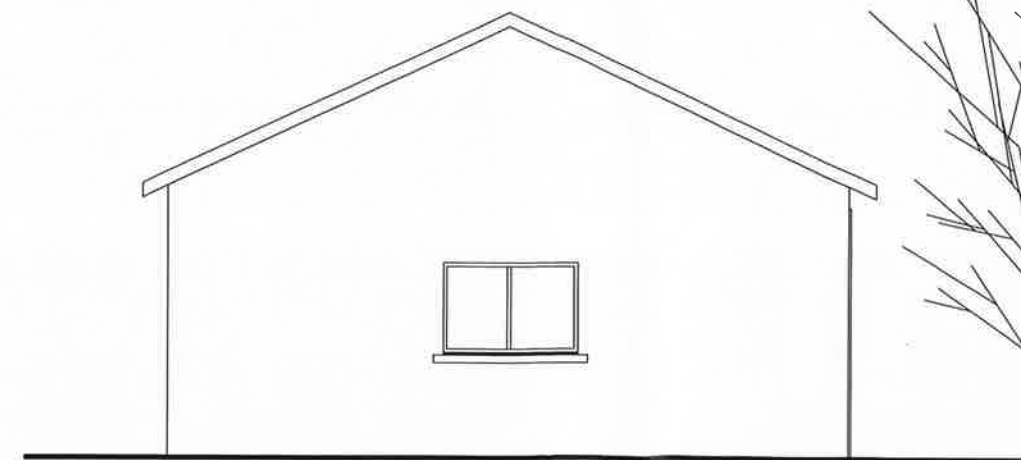
West Elevation @ 1.100



Plan @ 1.100 (131.5 sqm)



North Elevation @ 1.100



South Elevation @ 1.100

JOHN COTTER ENAGH NORTH, KILKISHEN, CO CLARE

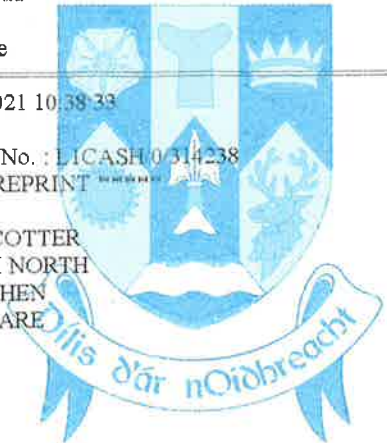
AN CHLÁIR

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

24/03/2021 10:38:33

Receipt No. : LICASH/0314238
*** REPRINT ***

JOHN COTTER
ENAGH NORTH
KILKISHEN
CO. CLARE



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

COMHAIRLE

Total : 80.00 EUR

CONTAE

Tendered :	
CREDIT CARDS	80.00

AN CHLÁIR

Change : 0.00

Issued By : LICASH - DEIRDRE FRENCH