



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Anthony & Christina Garfield
Finuremore
Mullagh
Ennis
Co. Clare
V95 H923**

4th May 2023

Section 5 referral Reference R23-21 – Anthony & Christina Garfield

Is the demolition of storm damaged housing with new sheep housing development, and if so, is it exempted development?

A Chara,

I refer to your application received on 23rd March 2023 and by way of further information on 19th April 2023 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 Stiúrthóireacht 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:

81685

Reference Number:

R23-21

Date Referral Received:

23rd March 2023

Date Further Information Received:

19th April 2023

Name of Applicant:

Anthony & Christina Garfield

Location of works in question:

Finuremore, Mullagh, Co. Clare

Section 5 referral Reference R23-21 – Anthony & Christina Garfield

Is the demolition of storm damaged housing with new sheep housing 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 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) Class 50(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The works as indicated in submitted documents from the referrer on 23rd March 2023 and the further information received on the 19th April 2023.

AND WHEREAS Clare County Council has concluded:

- (a) The demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh 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 demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh, County Clare, are exempted development having regard to Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended and Class 50(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, 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 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 demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore, Mullagh, Co. Clare is considered development which is exempted development.

Signed:


GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

4th May 2023

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

Reference No.: R23-21



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-21

Is the demolition of storm damaged housing with new sheep housing development, and if so, is it exempted development?

AND WHEREAS, Anthony & Christina Garfield 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 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) Class 50(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The works as indicated in submitted documents from the referrer on 23rd March 2023 and the further information received on the 19th April 2023.

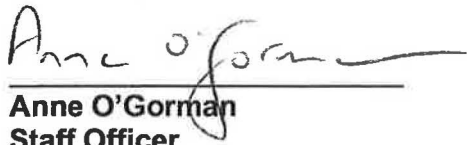
And whereas Clare County Council has concluded:

- (a) The demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh 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 demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh, County Clare, are exempted development having regard to Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended and Class 50(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, 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 demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore, Mullagh, Co. Clare

constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

A handwritten signature in black ink, appearing to read 'Anne O'Gorman', written over a horizontal line.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

4th May 2023

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT 2

FILE REF:	R23-21
APPLICANT(S):	Anthony & Christina Garfield
REFERENCE:	Whether the demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh is or is not development and is or is not exempted development.
LOCATION:	Finuremore, Mullagh, County Clare
DUE DATE:	09 th May 2023

Introduction

The following further information was requested on the 14th April 2023. The response was received on the 19th April 2023. Outlined below is a reassessment of the proposal in light of the response received. The proposal is assessed in the context of the Clare County Development Plan 2023-2029.

- 1. You are requested to confirm whether or not the written consent letter received with the application comprises of all of the house owners within 100 metres of the site. In the instance where this is not the case you are requested to submit the additional written consent(s) required.*

The applicant states in the response received that written consent letter received with the application comprises of all of the house owners within 100 metres of the site.

- 2. You are requested to submit details of the proposed external finishes for the proposed shed. In this regard you are advised that the use of unpainted metal sheeting would not be exempted development.*

Pre-painted grey galvanised sheeting is proposed.

Site Location

The proposal site is located within the designated "Village Centre" of Mullagh and is zoned for Mixed Use Development. It is to the north of a local primary road and within an existing complex of attached farm buildings. There is a commercial premises to the west of the site and a dwelling to the east (i.e. applicants dwelling). The site is served by an existing access point to the road. The storm damaged sheep housing is between an existing farm workshop and stables. The main views towards the site are from the adjacent properties and also from the local road network to the north. The views from the north are long range views.

I inspected the site on the 06th April 2023.

Recent Planning History

Onsite (i.e. within farmyard)

None.

Environs

None.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Anthony & Christina Garfield. They are seeking a Section 5 Declaration as to whether the demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh is or is not development and is or is not exempted development. The applicants are the stated owners 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 & 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 & Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 50(a)

(a) The demolition of a building, or buildings, within the curtilage of—

- i. a house,*
- ii. an industrial building,*
- iii. (iii) a business premises, or*
- iv. (iv) a farmyard complex.*

- 1. No such building or buildings shall abut on another building in separate ownership.*
- 2. The cumulative floor area of any such building, or buildings, shall not exceed:*
 - (a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and*
 - (b) in all other cases, 100 square metres.*
- 3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.*

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 demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh 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:

- | | |
|---------------------------|------------------------|
| • Height | 4.8 metres |
| • Proposed Floor Area | 132 sqm |
| • Distance from road | Greater than 10 metres |
| • Distance from dwellings | Less than 100 metres |

Planning & Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 50(a)

(a) The demolition of a building, or buildings, within the curtilage of—

- v. a house,*
- vi. an industrial building,*
- vii. (iii) a business premises, or*
- viii. (iv) a farmyard complex.*

The building is within the curtilage of a farmyard complex.

- 1. No such building or buildings shall abut on another building in separate ownership.*

The building does not adjoin a building in separate ownership.

2. *The cumulative floor area of any such building, or buildings, shall not exceed:*

1. *in the case of a building, or buildings within the curtilage of a house, 40 square metres, and*

Not applicable.

2. *in all other cases, 100 square metres.*

Based on my onsite observations I note that the remaining area of the existing storm damaged building is less than 100sqm.

3. *No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.*

Not applicable.

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 sheep 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.*

It is stated that the shed would be served by a dungstead and run-off effluent tank.

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 is within 100 metres of a number of dwellings. A signed letter from adjacent neighbours accompanies the application. In the further information response the applicant states that the list of persons providing written consent comprises of all of the neighbouring dwellings within 100 metres.

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

Pre-painted grey galvanized cladding is 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:

- (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

No onsite planning permission. It is proposed that the use will be agricultural.

- (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,*

No alterations to the existing access point are proposed.

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

Not applicable in this instance. There is an existing agricultural access point serving the site.

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

This would not arise.

- (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, that nature of the proposal site and its receiving environs, the views available towards the site I consider that development proposed would not interfere with the character of the landscape or views in the area.

- (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,*

This is 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,*

This is not applicable in this instance.

- 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 proposal site is located circa 3.4km from the Mid Clare Coast SPA AND THE Carrowmore Point to Spanish Point and Islands 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.

- a. *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,*

This is 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 question has been referred to the Planning Authority:

Whether the demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh 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 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) Class 50(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The works as indicated in submitted documents from the referrer on 23rd March 2023 and the further information received on the 19th April 2023.

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

- (a) the demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh 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 demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh, County Clare, are exempted development having regard to Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended and Class 50(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority) hereby decides that the demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh County Clare, is development and is exempted development.



A/Executive Planner
Date: 03rd May 2023



Senior Executive Planner
Date: 03/05/23

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	R23-21
Applicant Name	Garfield
Development Location	Mullagh, Co Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
Replacement sheep 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)
Mid Clare Coast SPA	Cormorant (<i>Phalacrocorax carbo</i>) [A017] Barnacle Goose (<i>Branta leucopsis</i>) [A045] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Sanderling (<i>Calidris alba</i>) [A144] Purple Sandpiper (<i>Calidris maritima</i>) [A148] Dunlin (<i>Calidris alpina</i>) [A149] Turnstone (<i>Arenaria interpres</i>) [A169] Wetland and Waterbirds [A999]	3.4
Carrowmore Point to Spanish Point and Islands SAC	Coastal lagoons [1150] Reefs [1170] Perennial vegetation of stony banks [1220] Petrifying springs with tufa formation (Cratoneurion) [7220]	3.4

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</i>	No

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.

		<i>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>	
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 on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No impacts envisaged

Appropriate Assessment Screening Determination	
Planning File Reference	R23-21
Proposed Development	Sheep shed
Development Location	Mullagh
European sites within impact zone	As per report
Description of the project	
Replacement of storm damaged sheep 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	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Significant remove from designations. Nature of development. No direct links. Onsite use unchanged.	
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	No
(b) There is no potential for significant effects to European Sites ³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out ⁴	No

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 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.

(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	No
Completed By	John O'Sullivan
Date	03 rd May 2023

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.



FINKERMORE
MURRATON
ENNIS
Co. CLARE
V95 H923

17th April '23

Ms. ANNE O'Gorman
STAFF OFFICE
PLANNING DEPT
CLARE COUNTY COUNCIL

RE: R23-21

Dear Ms O'Gorman,

In response to your letter of 14th April.

1/ I confirm the written consent letter sent with the application comprises all the necessary written consent.

2/ The external finishes of the proposed shed will be pre-painted, plastisol coated galvanised steel to RAL 9002, colour grey.

Yours sincerely,

Walter G. G. G.



Registered Post

COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Anthony & Christina Garfield
Finuremore
Mullagh
Ennis
Co. Clare
V95 H923

14th April 2023

Section 5 referral Reference R23-21 – Anthony & Christina Garfield

Is the demolition of storm damaged housing with new sheep housing development, and if so, is it exempted development?

A Chara,

I refer to your application received on 23rd March 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

I wish to advise that in accordance with Section 5 (2) (b) of the Planning & Development Act, 2000, as amended, the following further information is required:

1. You are requested to confirm whether or not the written consent letter received with the application comprises of **all** of the house owners within 100 metres of the site. In the instance where this is not the case you are requested to submit the additional written consent(s) required.
2. You are requested to submit details of the proposed external finishes for the proposed shed. In this regard you are advised that the use of unpainted metal sheeting would not be exempted development.

Please submit your response to the Planning Authority in writing, also quoting your reference number R23-21, to the postage address at the bottom of this correspondence. Alternatively, please email your response to planoff@clarecoco.ie, also quoting reference R23-21.

Mise, le meas


Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúrthóireacht 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 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT 1

FILE REF:	R23-21
APPLICANT(S):	Anthony & Christina Garfield
REFERENCE:	Whether the demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh is or is not development and is or is not exempted development.
LOCATION:	Finuremore, Mullagh, County Clare
DUE DATE:	18 th April 2023

Site Location

The proposal site is located within the designated "Village Centre" of Mullagh and is zoned for Mixed Use Development. It is to the north of a local primary road and within an existing complex of attached farm buildings. There is a commercial premises to the west of the site and a dwelling to the east (i.e. applicants dwelling). The site is served by an existing access point to the road. The storm damaged sheep housing is between an existing farm workshop and stables. The main views towards the site are from the adjacent properties and also from the local road network to the north. The views from the north are long range views. I inspected the site on the 06th April 2023.

Recent Planning History

Onsite (i.e. within farmyard)

None.

Environs

None.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Anthony & Christina Garfield. They are seeking a Section 5 Declaration as to whether the demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh is or is not development and is or is not exempted development. The applicants are the stated owners 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 & 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 & Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 50(a)

(a) The demolition of a building, or buildings, within the curtilage of—

- i. a house,*
 - ii. an industrial building,*
 - iii. (iii) a business premises, or*
 - iv. (iv) a farmyard complex.*
- 1. No such building or buildings shall abut on another building in separate ownership.*
 - 2. The cumulative floor area of any such building, or buildings, shall not exceed:*
 - (a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and*
 - (b) in all other cases, 100 square metres.*
 - 3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.*

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 demolition of a storm damaged sheep housing and the construction of replacement sheep housing at Finuremore Mullagh 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:

- Height 4.8 metres
- Proposed Floor Area 132 sqm
- Distance from road Greater than 10 metres
- Distance from dwellings Less than 100 metres

Planning & Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 50(a)

(a) The demolition of a building, or buildings, within the curtilage of—

- v. a house,*
- vi. an industrial building,*
- vii. (iii) a business premises, or*
- viii. (iv) a farmyard complex.*

The building is within the curtilage of a farmyard complex

- 1. No such building or buildings shall abut on another building in separate ownership.*

The building does not adjoin a building in separate ownership.

- 2. The cumulative floor area of any such building, or buildings, shall not exceed:*

- 1. in the case of a building, or buildings within the curtilage of a house, 40 square metres, and*

Not applicable.

- 2. in all other cases, 100 square metres.*

Based on my onsite observations I note that the remaining area of the existing storm damaged building is less than 100sqm.

- 3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.*

Not applicable.

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 sheep 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.*

It is stated that the shed would be served by a dungstead and run-off effluent tank.

- 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 is within 100 metres of a number of dwellings. A signed letter from adjacent neighbours accompanies the application. It is unclear if this is all of the neighbouring dwellings within 100 metres.

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

Details of the external cladding have not been provided.

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*

No onsite planning permission. It is proposed that the use will be agricultural.

- (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,*

No alterations to the existing access point are proposed.

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

Not applicable in this instance. There is an existing agricultural access point serving the site.

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

This would not arise.

- (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, that nature of the proposal site and its receiving environs, the views available towards the site I consider that development proposed would not interfere with the character of the landscape or views in the area.

- (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,

This is 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,*

This is not applicable in this instance.

- 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 proposal site is located circa 3.4km from the Mid Clare Coast SPA AND THE Carrowmore Point to Spanish Point and Islands 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.

- a. *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,*

This is 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

I recommend that the following **FURTHER INFORMATION** is requested by the Planning Authority:

1. You are requested to confirm whether or not the written consent letter received with the application comprises of all of the house owners within 100 metres of the site. In the instance where this is not the case you are requested to submit the additional written consent(s) required.
2. You are requested to submit details of the proposed external finishes for the proposed shed. In this regard you are advised that the use of unpainted metal sheeting would not be exempted development.



A/Executive Planner

Date: 13th April 2023

Date:


Senior Executive Planner

13/04/23.

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	R23-21
Applicant Name	Garfield
Development Location	Mullagh, Co Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No

Description of the project (To include a site location map):

Replacement sheep shed.

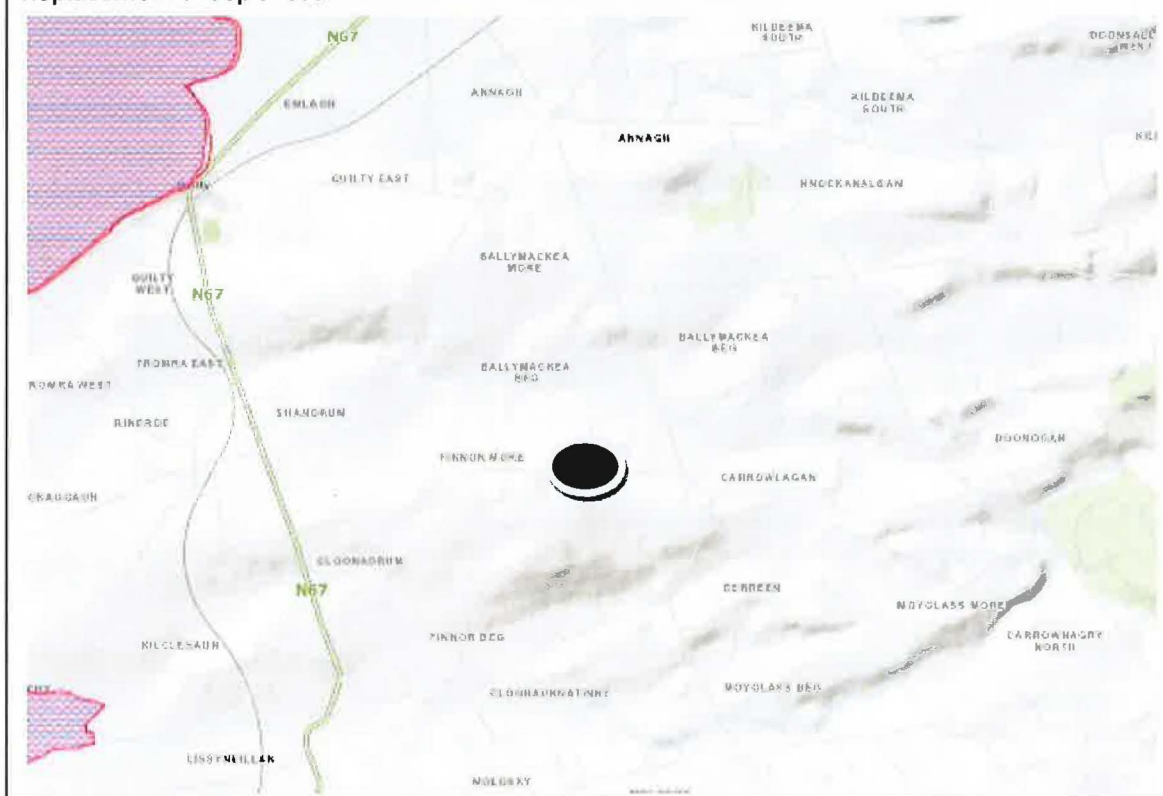


Table 2: Identification of European sites which may be impacted by the proposed development.

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)
Mid Clare Coast SPA	Cormorant (<i>Phalacrocorax carbo</i>) [A017] Barnacle Goose (<i>Branta leucopsis</i>) [A045] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Sanderling (<i>Calidris alba</i>) [A144] Purple Sandpiper (<i>Calidris maritima</i>) [A148] Dunlin (<i>Calidris alpina</i>) [A149] Turnstone (<i>Arenaria interpres</i>) [A169] Wetland and Waterbirds [A999]	3.4
Carrowmore Point to Spanish Point and Islands SAC	Coastal lagoons [1150] Reefs [1170] Perennial vegetation of stony banks [1220] Petrifying springs with tufa formation (Cratoneurion) [7220]	3.4

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</i>	No

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.

		<i>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>	
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 on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No impacts envisaged

Appropriate Assessment Screening Determination	
Planning File Reference	R23-21
Proposed Development	Sheep shed
Development Location	Mullagh
European sites within impact zone	As per report
Description of the project	
Replacement of storm damaged sheep 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	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Significant remove from designations. Nature of development. No direct links. Onsite use unchanged.	
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	No
(b) There is no potential for significant effects to European Sites ³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out ⁴	No

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 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.

(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	No
Completed By	John O'Sullivan
Date	13 th April 2023

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.











COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Anthony & Christina Garfield
Finuremore
Mullagh
Ennis
Co. Clare
V95 H923

23/03/2023

Section 5 referral Reference R23-21 – Anthony & Christina Garfield

Is the demolition of storm damaged housing with new sheep housing development, and if so is it exempted development?

A Chara,

I refer to your application received on 23rd March 2023 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

23/03/2023 11:20:03

Receipt No. L1CASH/0/347030
***** REPRINT *****

ANTHONY & CHRISTINA GARFIELD
FINUREMORE
MULLAGH
ENNIS
CO. CLARE
V95 H923
R23-21

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

Total : 80.00 EUR

Tendered :
CHEQUES 80.00

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

P07

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLAIR

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

R23-21

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	ANTHONY & CHRISTINA GARFIELD KINURMORE, MULLAGH, ENNIS, CO. CLARE V95 4923
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	

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 DEMOLITION OF SEVERELY DAMAGED HOUSING WITH NEW SHEEP HOUSING DEVELOPMENT AND IF SO IT IS EXEMPTED?

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

IT IS PROPOSED TO DEMOLISH OUR EXISTING STORM-DAMAGED SHEEP HOUSING, AND REPLACE IT WITH A PURPOSE-BUILT SHED 14.4m x 9.2m x 4.8m HIGH, 'A' FRAME, IN STEEL & CLADDING. THE NEW SHED IS LESS THAN 8m IN HEIGHT, LESS THAN 200m² IN AREA, AND MORE THAN 10m FROM A PUBLIC ROAD. THE SHED IS PROVIDED WITH A GULLYSTERO AND RUN-OFF EFFLUENT TANK.

CONSENT HAS BEEN SOUGHT FROM OUR NEIGHBOURS.


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

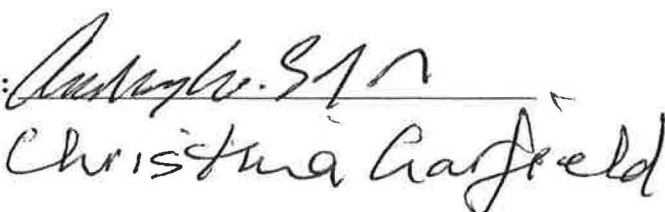
(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

1. SITE LOCATION MAP

2. PLANNING PACK MAP

3. SKETCH OF PROPOSED DEVELOPMENT

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	FIVKRE MOORE MULLAGH BRUNN IS CO - CLARE V95 H923
(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?	NO
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	OWNED BY ANTHONY & GRACIE STINE CARFIELD
(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>	
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	YES
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	NO
(g) Were there previous planning application/s on this site? If so please supply details:	NO
(h) Date on which 'works' in question were completed/are likely to take place:	OCTOBER 2023

SIGNED: 
Christina Garfield

DATE: 21st March '23

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:	

ANTHONY & CHRISTINA GARFIELD
P.O. REQUEST

MARCH 2023

WE, THE UNDERSIGNED, HEREBY GIVE
OUR CONSENT TO THE PROPOSED
DEMOLITION OF EXISTING HOUSING, AND
ERECTION OF A REPLACEMENT SHEEP
SHED BY ANTHONY & CHRISTINA GARFIELD
AT THEIR FARM IN MULLAGH.

<u>NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
TERESA SEXTON	MAIN ST. MULLAGH	Teresa Sexton
Chrissie O Keefe	"	Chrissie O Keefe
TIMMY SCARLEN	"	T. Scarlen
SEamus Frawley	MULLAGH	Seamus Frawley
MARY HEHIR	"	Mary Kehir

Site Location Map

LOCATION "CIRCLED"

CENTRE COORDINATES:
ITM 504557,673038

PUBLISHED: 01/03/2023
ORDER NO.: 50320724_1

MAP SERIES: 6 Inch Raster
MAP SHEETS: CE038

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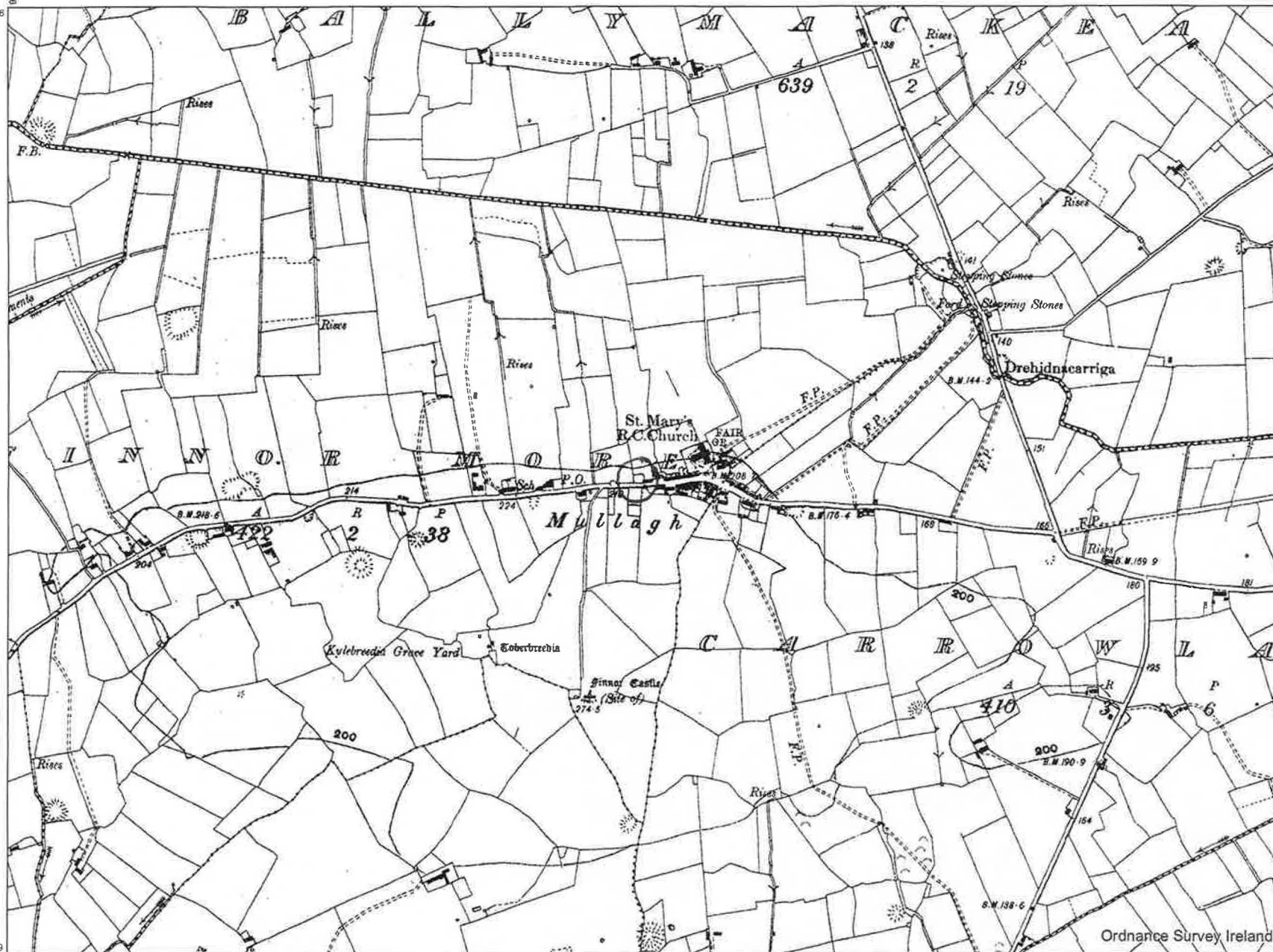
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OUTPUT SCALE: 1:10,560

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:
<http://www.osi.ie>; search 'Capture Resolution'

Planning Pack Map

LOCATION *CROSSED*

CENTRE COORDINATES:
ITM 504557,673038

PUBLISHED: 01/03/2023
ORDER NO.: 50320724_1

MAP SERIES: 1:5,000
MAP SHEETS: 4373

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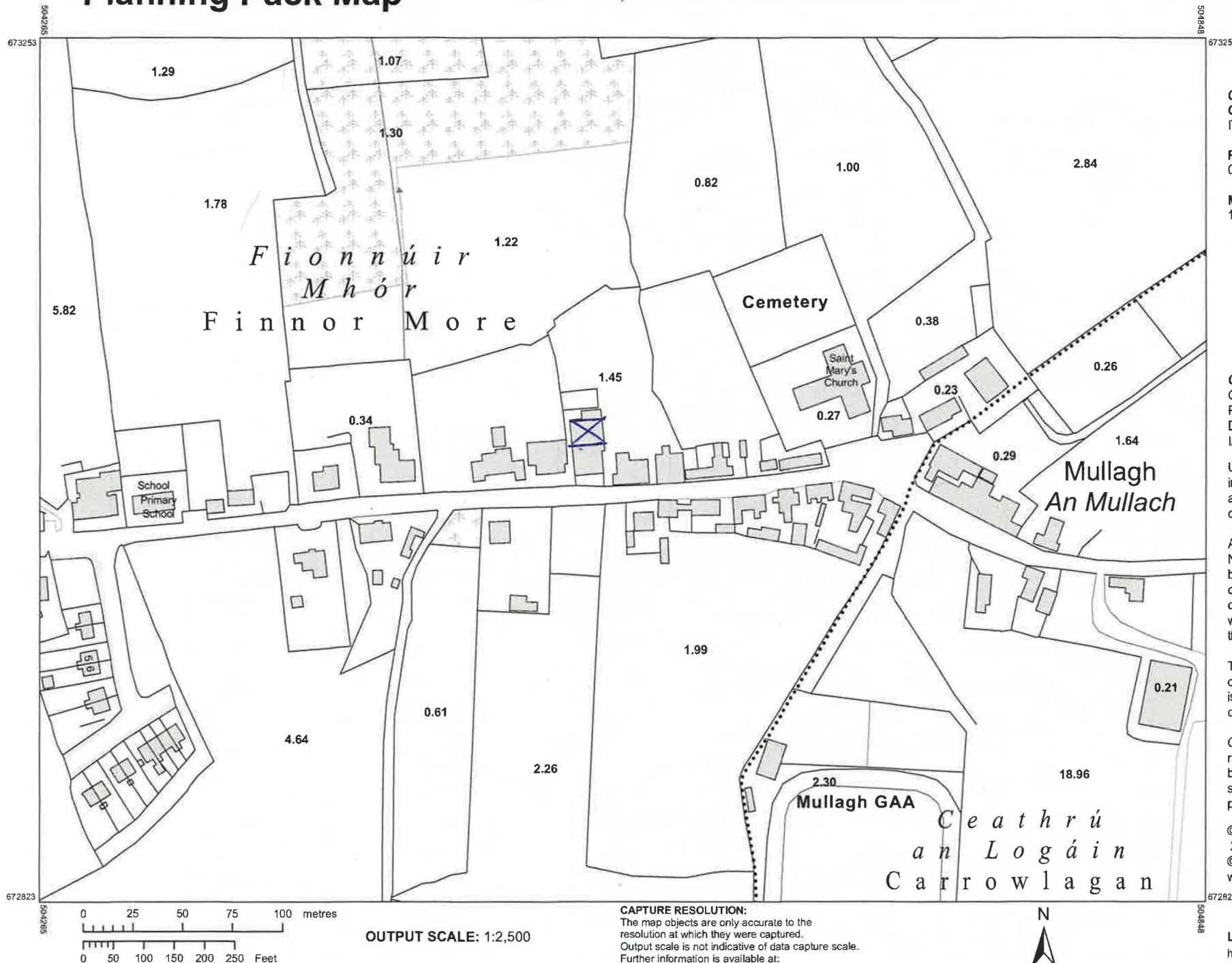
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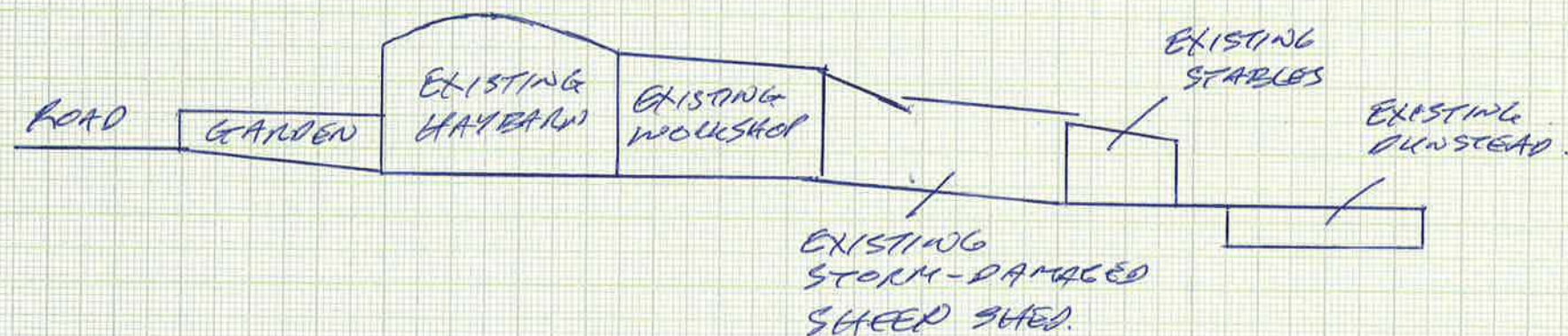
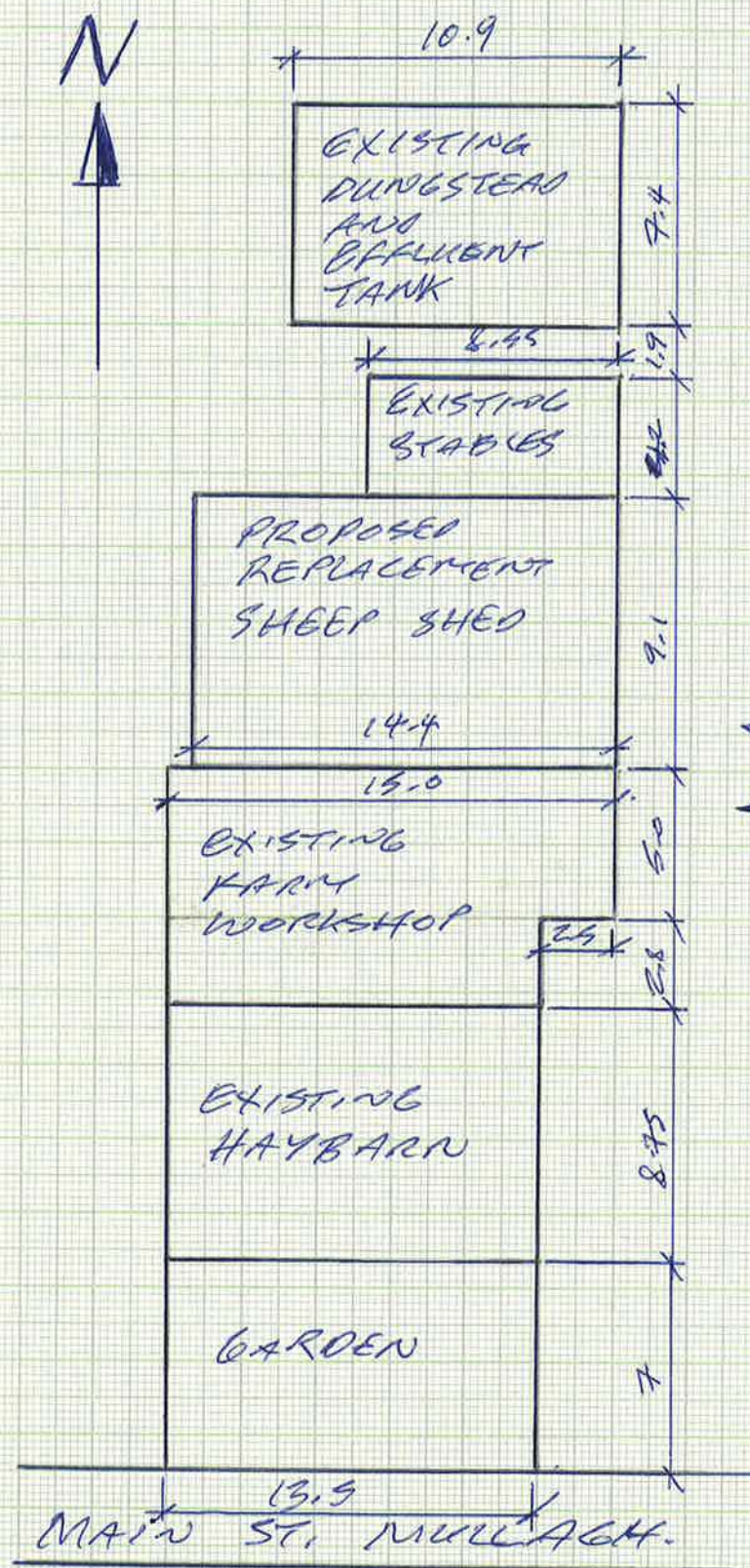
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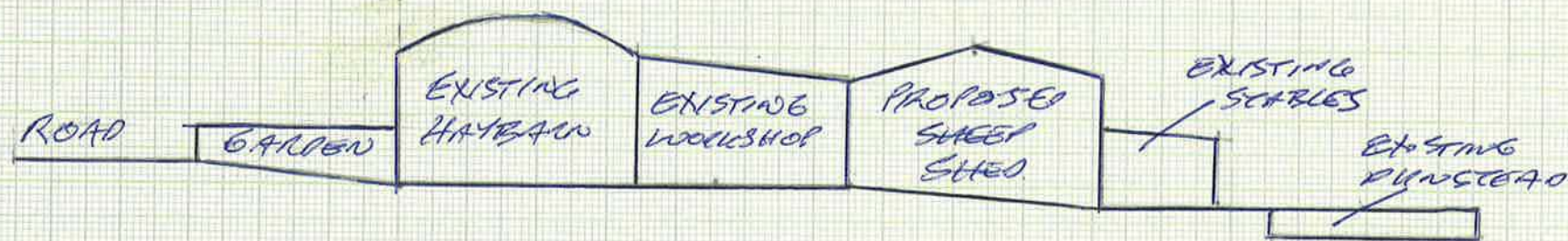
LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'



PLAN OF PROPOSED SHEEP SHED IN MULLAGH FOR ANTHONY & CHRISTINA GARFIELD.



VIEWS ON A



SCALE 1:250