



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Raphael Considine  
c/o Jamie Vaughan  
Deerpark West, Ennistymon  
Co. Clare**

**23rd January 2024**

**Section 5 referral Reference R23-33 – Raphael Considine**

Is the construction of an agricultural slatted shed for housing cattle at Poulnagun, Lisdoonvarna, Co. Clare development and if so is it exempted development?

A Chara,

I refer to your application received on 18th May 2023 and by way of further information on 9th January 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

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

Mise, le meas

**Anne O'Gorman  
Staff Officer  
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



**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: 83023

Reference Number: R23-33

Date Referral Received: 18th May 2023

Date Further Information Received: 9th January 2024

Name of Applicant: Raphael Considine

Location of works in question: Poulmagun, Lisdoonvarna, Co. Clare

**Section 5 referral Reference R23-33 – Raphael Considine**

Is the construction of an agricultural slatted shed for housing cattle at Poulmagun, Lisdoonvarna, Co. Clare development and if so is it exempted development?

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

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

**AND WHEREAS Clare County Council has concluded:**

- (a) The development consisting of the construction of a slatted unit for the housing of cattle constitutes "works" and "development" which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- (b) The said development, consisting of a slatted unit for the housing of cattle, is exempted development having regard to Class 6 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended, including the conditions and limitations therein.

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate

to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

**NOW THEREFORE** pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the construction of a slatted shed for the housing of cattle at Poulmagun, Lisdoonvarna, Co. Clare is considered development which is exempted development.

Signed:

  
GARETH RUANE  
SENIOR EXECUTIVE PLANNER 

Date:

23rd January 2024

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

**Reference No.: R23-33**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R23-33**

**Is the construction of an agricultural slatted shed for housing cattle at Poulmagun, Lisdoonvarna, Co. Clare development and if so is it exempted development?**

**AND WHEREAS, Raphael Considine** 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, and 3 of the Planning and Development Act 2000, as amended.
- (b) Class 6, Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (c) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended.
- (d) The details and drawing as indicated in submitted documents from the referrer.

**And whereas Clare County Council has concluded:**

- (a) The development consisting of the construction of a slatted unit for the housing of cattle constitutes "works" and "development" which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- (b) The said development, consisting of a slatted unit for the housing of cattle, is exempted development having regard to Class 6 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended, including the conditions and limitations therein.

**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 change of the construction of a slatted shed for the housing of cattle at Poulmagun, Lisdoonvarna, 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 blue ink, appearing to read 'Anne O'Gorman', with a horizontal line extending to the right.

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

**23rd January 2024**

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

<b>FILE REF:</b>	R23-33
<b>APPLICANT(S):</b>	Raphael Considine
<b>REFERENCE:</b>	Whether the construction of an agricultural slatted shed for housing cattle is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Poulnagun, Lisdoonvarna, County Clare
<b>DUE DATE:</b>	26 Jan 2024

Further information was requested as follows 29<sup>th</sup> May 23:

1. Having regard to the ground conditions on site and the proximity to watercourses, the Planning Authority considers that there is potential indirect connectivity from the site to the Blackhead Poulsallagh Complex SAC. In order for the Planning Authority to complete the Appropriate Assessment Screening of this development you are requested to submit maps show the full extent of lands available for the spreading of farm effluent.
2. Please submit details of the finished floor levels of the structure relative to the levels of the public road.

**Summary of Applicants Response.**

1. A land holding map outlined in blue ( comprising 15 hectares/ 37 acres) is the full extent of lands available for slurry spreading .
2. A revised site layout plan has been submitted showing the proposed f.f.l. as 94.55m, and the existing ground level at 94.55m.

**Assessment**

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.*

The structure will be served by an underground tank which it is stated will be in accordance with the Dept of Agriculture Requirements.

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 greater than 100m of any existing dwellings.

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

Details of the external cladding have been provided consisting of concrete wall with gray/blue cladding.

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 Heritage Landscape. Notwithstanding same, having regard to the nature of the proposed development, the 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. In this regard I note that the levels on the site are lower than the public road and also that there are forestry plantations to the south and east of the site which will assist in screening the dwelling. Views of the structure from the Regional Road to the west will be limited. The ffl will be 94.55m which is the same as the existing ground level in the area where the shed is located. It is also noted that the level at the entrance is 100m and the level on the internal farm track is 96.95m. Having regard to the foregoing it is not considered that the proposed development will interfere with the character of a 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,*



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 2km from the Blackhead Poulsallagh Complex SAC which has the following Qualifying Interests:

- Reefs [1170]
- Perennial vegetation of stony banks [1220]
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]
- Alpine and Boreal heaths [4060]
- Juniperus communis formations on heaths or calcareous grasslands [5130]
- Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (\* important orchid sites) [6210]
- Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]
- Petrifying springs with tufa formation (Cratoneurion) [7220]
- Limestone pavements [8240]
- Submerged or partially submerged sea caves [8330]
- Petalophyllum ralfsii (Petalwort) [1395]

A land holding map has been submitted showing the full extent of ownership. It is also stated in the response submitted that all of the holding is used for spreading. It is noted that the drains on this holding flow into a tributary of the Aille River which discharges to the sea at Doolin. However the river does not discharge directly to the Blackhead Poulsallagh Complex SAC, the outfall for which is 1.5km south of the SAC. While the potential for hydrological connectivity is acknowledged, it is also noted that organic fertiliser can only be spread in accordance with the specified setbacks from water courses and drinking water abstraction points as specified under Regulation 17 of the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2002. Having regard to the nature and scale of the proposed development and the absence of proximity 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.

- 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.

### **Conclusion**

Having regard to the above it is considered that the proposed development constitutes both 'works' and 'development' which are exempted development. Regard has been had to Class 6, of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended and Article 9 as amended of the same Regulations.

### **Recommendation**

**The following questions have been referred to the Planning Authority:**

Whether the construction of whether the construction of a slatted unit for housing of cattle at Poulmagun, Lisdoonvarna 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, and 3 of the Planning and Development Act 2000, as amended,
- (b) Class 6, Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (c) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (d) The details and drawing as indicated in submitted documents from the referrer.

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

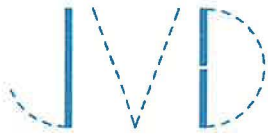
- (a) the development consisting of the construction of a slatted unit for the housing of cattle constitutes "works" and "development" which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- (b) The said development, consisting of a slatted unit for the housing of cattle, is exempted development having regard to Class 6 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, ~~and Article 9~~ as amended, including the conditions and limitations therein.

**Now therefore Clare County Council (Planning Authority), hereby decides that construction of a slatted shed for the housing of cattle at Poulmagun, Lisdoonvarna, is development and is exempted development.**

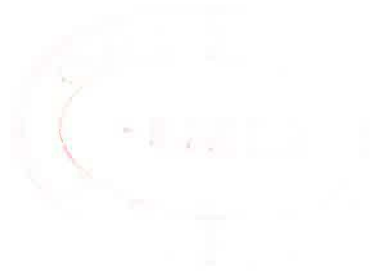
Ellen Carey.  
**Ellen Carey**  
**Executive Planner**  
**Date: 17-01-24.**

GR  
**Garreth Ruane**  
**Senior Executive Planner**  
**Date: 23/01/24.**





Planning Department,  
Clare County Council,  
Áras Contae an Chláir,  
New Road, Ennis  
Co. Clare  
V95 DXP2



08/01/2024

**RE: Section 5 referral Reference R23-33 – Raphael Considine.**

Dear Sir / Madam,

Thank you for your request for further information dated 29<sup>th</sup> May 2023(copy attached).  
Please see below and attached our response.

1. Please see attached map with the full extent of lands available for slurry spreading edged in blue, total: 15 hectares or 37 acres.
2. Please see attached site layout plan with the road level and proposed FFL of building clearly shown.

Should you have any queries please do not hesitate to contact me.

Yours Sincerely,

A handwritten signature in black ink, reading 'Jamie Vaughan', is written over a horizontal line.

Jamie Vaughan  
BSc. Arch Tech.



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CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

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c/o Jamie Vaughan  
Deerpark West, Ennistymon  
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**29th May 2023**

**Section 5 referral Reference R23-33 – Raphael Considine**

**Is the construction of an agricultural slatted shed for housing cattle at Poulmagun, Lisdoonvarna, Co. Clare development and if so is it exempted development?**

A Chara,

I refer to your application received on 18th May 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. Having regard to the ground conditions on site and the proximity to watercourses, the Planning Authority considers that there is potential indirect connectivity from the site to the Blackhead Poulsallagh Complex SAC. In order for the Planning Authority to complete the Appropriate Assessment Screening of this development you are requested to submit maps show the full extent of lands available for the spreading of farm effluent.
2. Please submit details of the finished floor levels of the structure relative to the levels of the public road.

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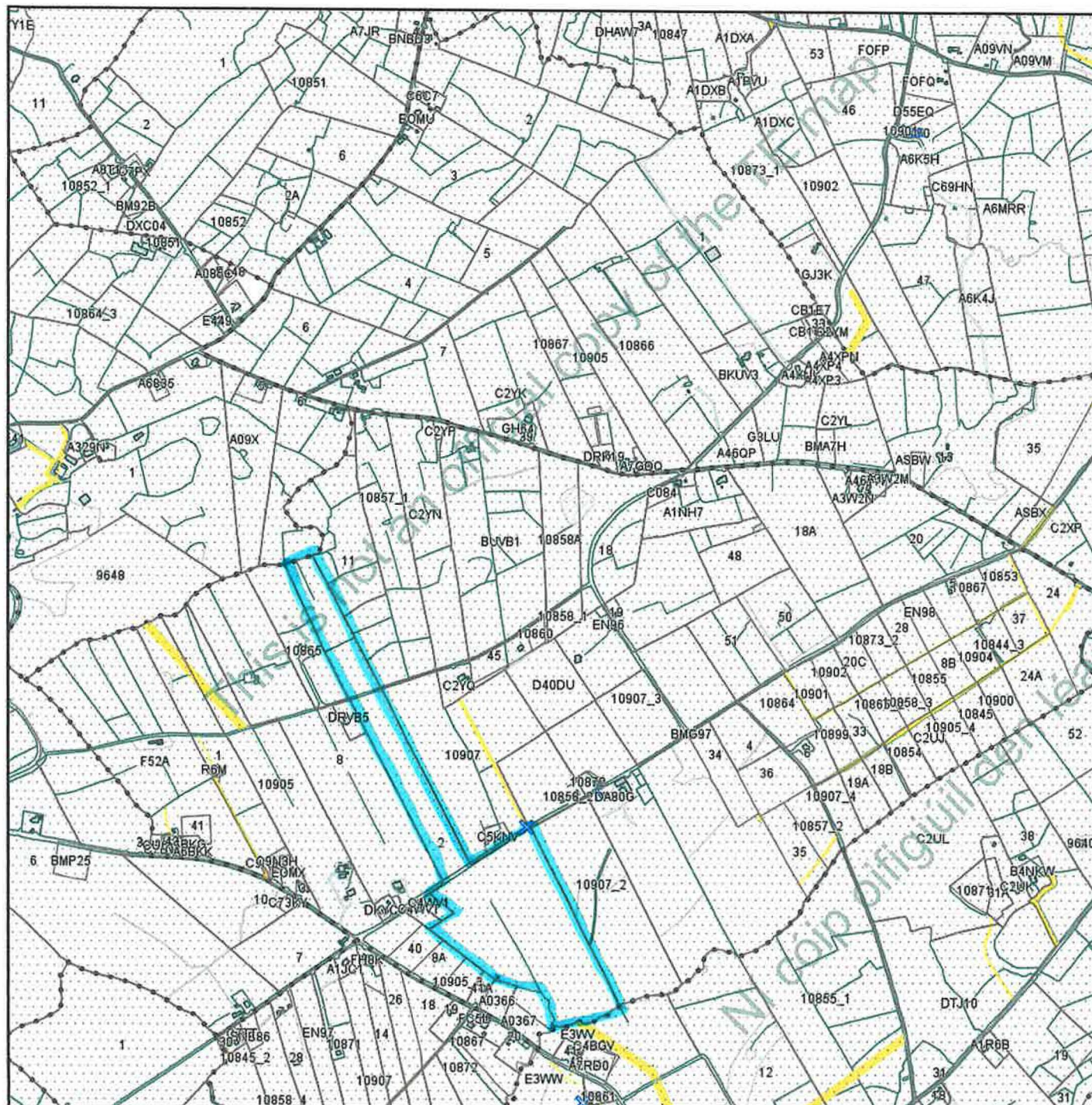
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Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2







**Tailte Éireann**

Clárúchán, Luacháil,  
Suirbhéireacht  
Registration, Valuation,  
Surveying

# Official Tailte Éireann Registration Map

This map should be read in conjunction with the folio.

Tailte Éireann (TÉ) Registration mapping is based on TÉ Surveying mapping. Where TÉ Registration maps are printed at a scale that is larger than the TÉ Surveying scale, accuracy is limited to that of the TÉ Surveying map scale.

For details of the terms of use and limitations of scale, accuracy and other conditions relating to TÉ Registration maps, see [www.tailte.ie](http://www.tailte.ie).

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(centre-line of parcel(s) edged)

Freehold

Leasehold

SubLeasehold

'S' Register

(see Section 8(b)(II) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

## Burdens (may not all be represented on map)

Right of Way / Wayleave

Turbary

Pipeline

Well

Pump

Septic Tank

Soak Pit

A full list of burdens and their symbology can be found at: [www.landdirect.ie](http://www.landdirect.ie)

Tailte Éireann Registration operates a non-conclusive boundary system. The TÉ Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a TÉ Registration map is conclusive as to the boundaries or extent.

(see Section 85 of the Registration of Title Act, 1964). As Inserted by Section 62 of the Registration of Deed and Title Act 2006.











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A Chara,

I refer to your application received on 18th May 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. Having regard to the ground conditions on site and the proximity to watercourses, the Planning Authority considers that there is potential indirect connectivity from the site to the Blackhead Poulsallagh Complex SAC. In order for the Planning Authority to complete the Appropriate Assessment Screening of this development you are requested to submit maps show the full extent of lands available for the spreading of farm effluent.
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**CLARE COUNTY COUNCIL**  
**SECTION 5 DECLARATION OF EXEMPTION APPLICATION**  
**PLANNERS REPORT 1**

<b>FILE REF:</b>	R23-33
<b>APPLICANT(S):</b>	Raphael Considine
<b>REFERENCE:</b>	Whether the construction of an agricultural slatted shed for housing cattle is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Poulnagun, Lisdoonvarna, County Clare
<b>DUE DATE:</b>	14 <sup>th</sup> June 2023

**Site Location**

The proposal site is located within the open countryside within a designated 'Heritage Landscape'. The site is located off a minor local road some 3km northwest of Lisdoonvarna. The site levels are below the road level. There is a mixed pattern of development in the area with housing and agricultural buildings nearby.

**Recent Planning History**

None.

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Raphael Considine who is seeking a Section 5 Declaration as to whether the construction of an agricultural slatted shed for housing cattle is or is not development and is or is not exempted development.

The applicant is the stated owner of the site.

**Statutory Provisions**

**Planning and Development Act, 2000 (as amended)**

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

S.3.(1) In this Act, "development" means, except where the context otherwise requires, **the carrying out of any works on, in, over or under land** or the making of any material change in the use of any structures or other land.

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

*"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

Planning & 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.*

Under Article 9 (1) of the same Regulations, development to which Article 6 relates shall not be exempted development for the purposes of the Act:

(a) *if the carrying out of such development would –*

- (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
- (ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- (iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*
- (iii)(a) *endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
- (iv) *interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*
- (vii) *consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of*

*which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

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

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

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

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

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

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

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



## Assessment

### Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of an agricultural slatted shed for housing cattle 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 6.3 metres
- Proposed Floor Area 198 sqm
- Underground Tank Vol 172m<sup>3</sup>
- Distance from road Greater than 10 metres
- Distance from dwellings Greater than 100 metres

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

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

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

The structure will be served by an underground tank which it is stated will be in accordance with the Dept of Agriculture Requirements.

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 greater than 100m of any existing dwellings.

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

Details of the external cladding have been provided consisting of concrete wall with gray/blue cladding.

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 Heritage Landscape. Notwithstanding same, having regard to the nature of the proposed development, the 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. In this regard I note that the levels on the site are lower than the public road and also that there are forestry plantations to the south and east of the site which will assist in screening the dwelling. Views of the structure from the Regional Road to the west will be limited. Clarification on the FFL of the structure should be sought however.



- (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 2km from the Blackhead Poulsallagh Complex SAC which has the following Qualifying Interests:

- Reefs [1170]
- Perennial vegetation of stony banks [1220]
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]
- Alpine and Boreal heaths [4060]
- Juniperus communis formations on heaths or calcareous grasslands [5130]
- Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (\* important orchid sites) [6210]
- Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]
- Petrifying springs with tufa formation (Cratoneurion) [7220]
- Limestone pavements [8240]
- Submerged or partially submerged sea caves [8330]
- Petalophyllum ralfsii (Petalwort) [1395]

No details have been submitted in respect of the spreadlands available. Ground conditions on site are wet and there is some potential for hydrological connectivity from the site to the European site. In this regard there is a watercourse running to the south of the site. Further information shall be sought on this matter.

- 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

Further information is required as follows:

1. Having regard to the ground conditions on site and the proximity to watercourses, the Planning Authority considers that there is potential indirect connectivity from the site to the Blackhead Poulsallagh Complex SAC. In order for the Planning Authority to complete the Appropriate Assessment Screening of this development you are requested to submit maps show the full extent of lands available for the spreading of farm effluent.
2. Please submit details of the finished floor levels of the structure relative to the levels of the public road.



Garreth Ruane  
Senior Executive Planner  
26/05/2023



R23-33.



site:



west:





east.



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

Raphael Considine  
c/o Jamie Vaughan  
Deerpark West, Ennistymon  
Co. Clare

19/05/2023

**Section 5 referral Reference R23-33 – Raphael Considine**

Is the construction of an agricultural slatted shed for housing cattle at Poulnagun, Lisdooonvarna, Co. Clare development and if so is it exempted development?

A Chara,

I refer to your application received on 18th May 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 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



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

18/05/2023 12:23:19

Receipt No. L1CASH/0/349409  
\*\*\*\*\* REPRINT \*\*\*\*\*

RAPHAEL CONSIDINE  
C/O JAMIE VAUGHAN  
DEERPARK WEST  
ENNISTYMON  
CO. CLARE  
R23-33

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

Total : 80.00 EUR

Tendered :  
CHEQUES 80.00

Change : 0.00

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



R23-33

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](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://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	<p>RAPHAEL CONSIDINE</p> <p>CAHERMAKERLA, LISDOONVARNA, CO. CLARE</p> <p> </p> <p> </p> <p> </p>
(b) Telephone No.:	<p>Jamie Vaughan</p>
(c) Email Address:	<p> </p>
(d) Agent's Name and address:	<p>JAMIE VAUGHAN</p> <p>DEERPARK WEST ENNISTYMON,</p> <p>CO. CLARE</p> <p> </p> <p> </p>



## 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 AN AGRICULTURAL SLATTED SHED FOR HOUSING CATTLE  
 AT POULNAGUN, LISDOONVARNA, CO. CLARE EXEMPTED DEVELOPMENT?

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

WE ARE SEEKING AN EXEMPTION DECLARATION FROM THE PLANNING AUTHORITY FOR THE  
 THE CONSTRUCTION OF A TYPE 1 FARM STRUCTURE FOR HOUSING CATTLE. AS PER THE  
 DETAILS ON THE ATTACHED DRAWINGS.

- (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)*

SITE LOCATION MAP 1:2500 SCALE

SITE LAYOUT PLAN 1:1000 SCALE, PLANS ELEVATIONS & SECTIONS 1:100 SCALE

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	POULNAGUN, LISDOONVARNA, CO. CLARE _____ _____ _____ _____
(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):	OWNER _____ _____
(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>	N/A _____ _____ _____
(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? <i>If so please supply details:</i>	NO
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	NO
(h) Date on which 'works' in question were completed/are likely to take place:	AUG 23

SIGNED:

JAMIE VAUGHAN  
(AGENT)

DATE: 16-05-2023

### **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:

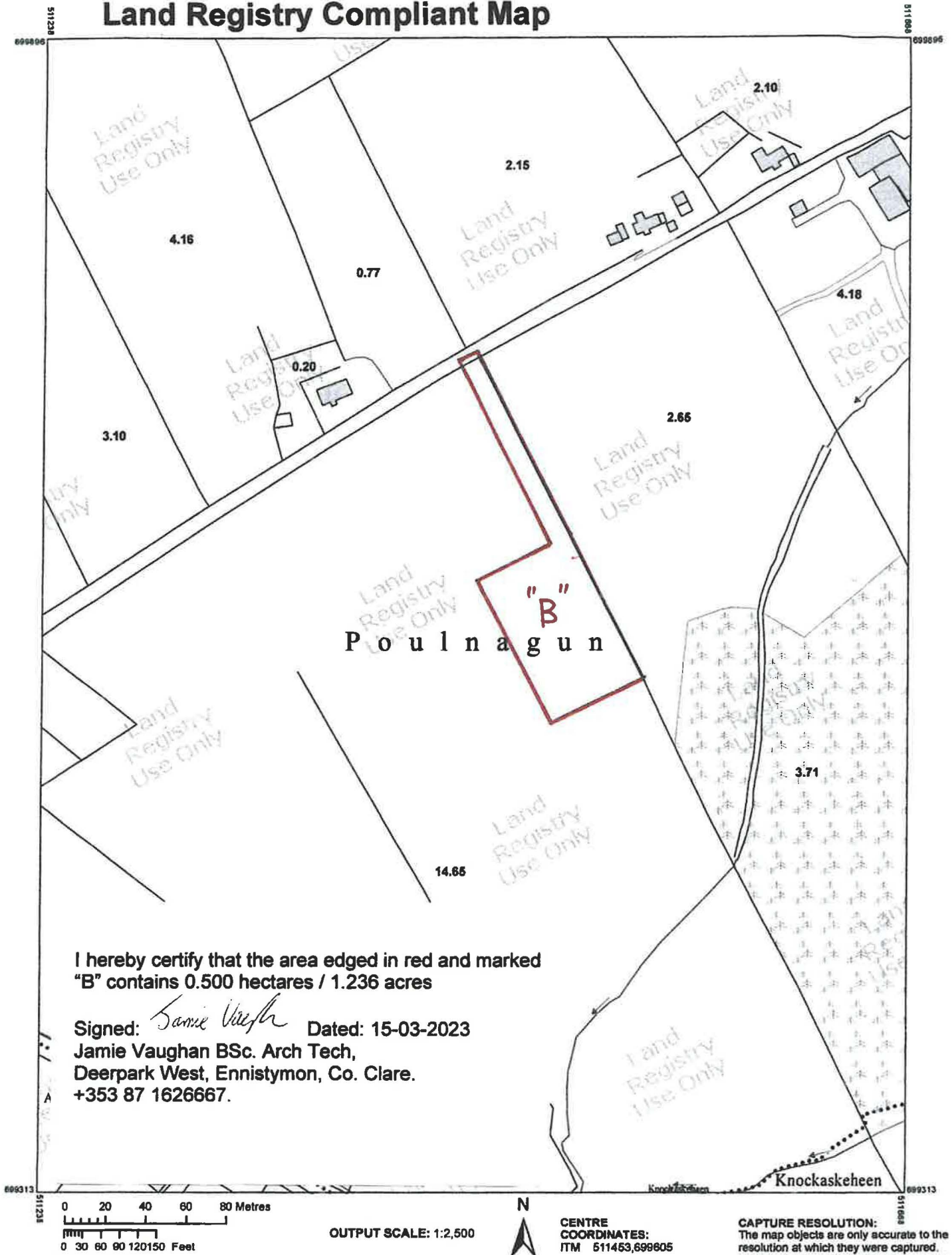
Planning Department,  
Economic Development Directorate,  
Clare County Council  
Aras Contae an Chlair,  
New Road,  
Ennis,  
Co. Clare  
V95DXP2

- (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:.....	

# Land Registry Compliant Map



COMPILED AND PUBLISHED BY:  
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Report any discrepancies found on site immediately to Jamie Vaughan Design.

Rev No.	Description	Date
0	Issued for Planning	16-05-2023

**JVD Jamie Vaughan Design**  
Architectural Technology | Furniture | BIM

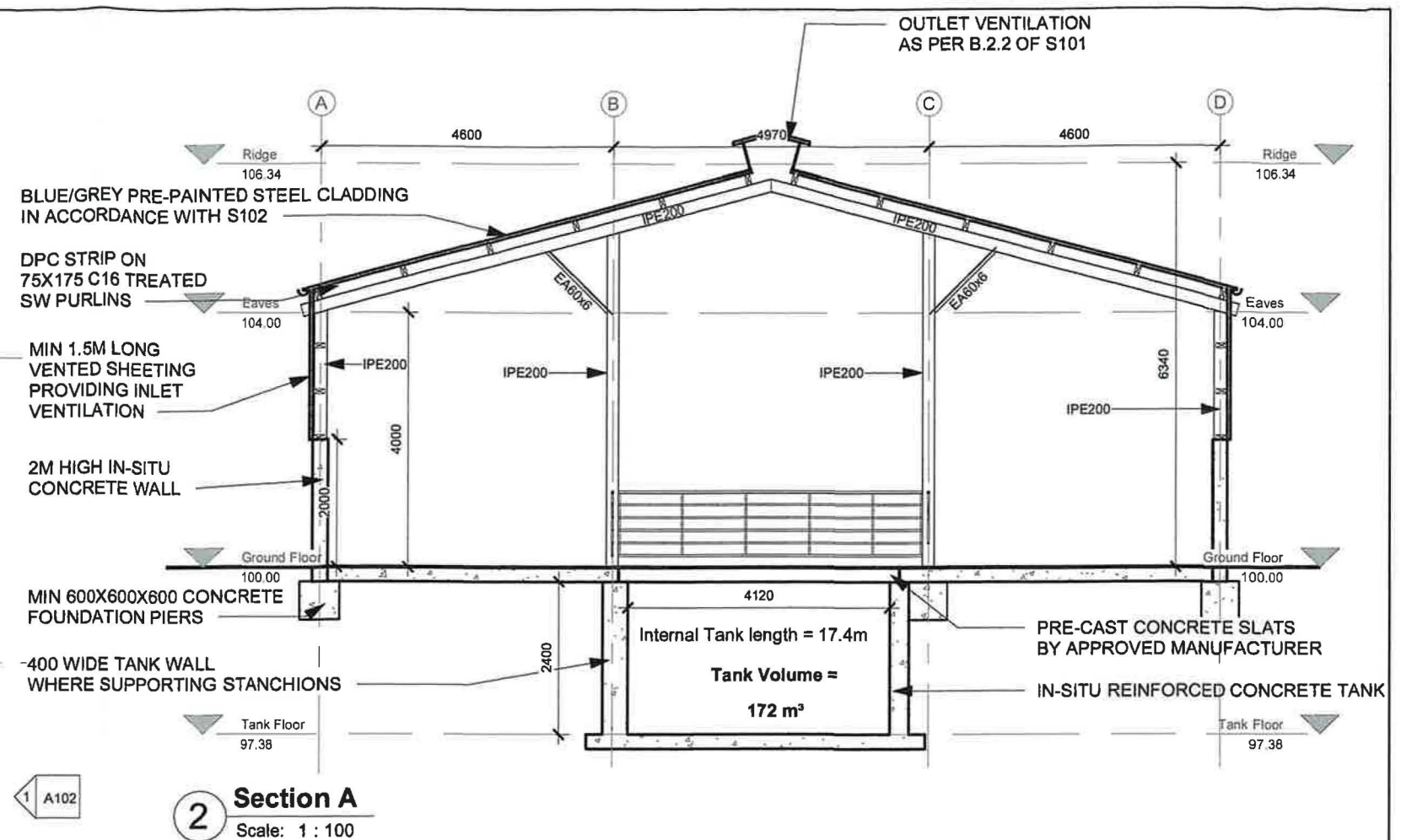
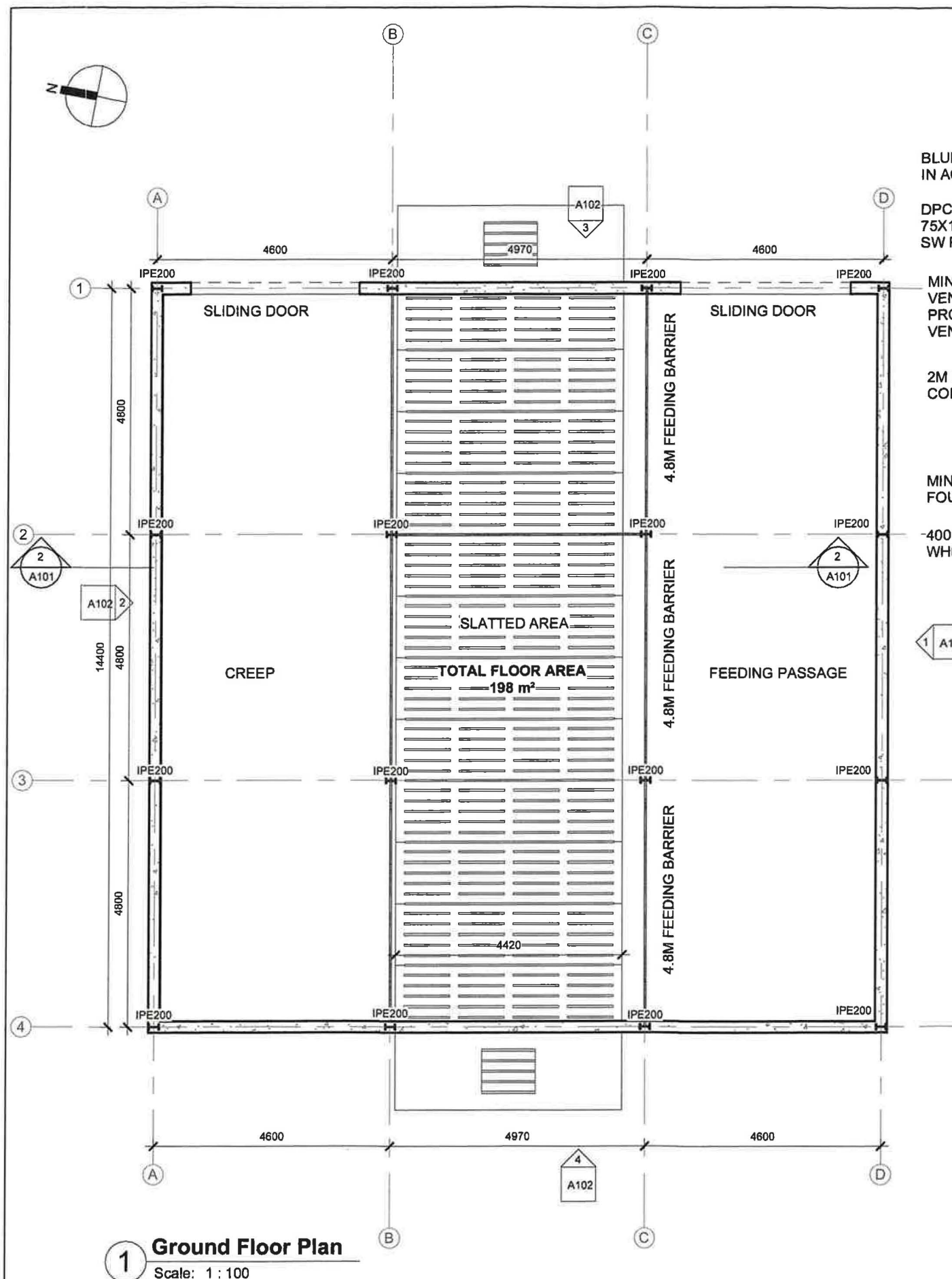
Deerpark West, Ennistymon, Co. Clare, Ireland. V95 Y925

Phone: +353 871626667 | Email: jamievaughandesign@gmail.com

PROJECT	Slatted Shed
CLIENT	Raphael Considine
PROJECT ADDRESS	Pounagun, Lisdoonvarna, Co. Clare

DRAWING NAME		Site Layout Plan	
Date	Project number	DRAWING PURPOSE	
MAY 2023	2305	Planning	
Drawn by	Scale (to A3)	DRAWING NUMBER	REV
JV	1 : 1000	A100	0





**ALL WORKS TO BE CARRIED OUT IN ACCORDANCE WITH DEPARTMENT OF AGRICULTURE, FOOD AND MARINE - FARM BUILDING AND STRUCTURES SPECIFICATIONS.**

#### TANK

IN-SITU REINFORCED CONCRETE TANK IN ACCORDANCE WITH S.123 - MINIMUM SPECIFICATION FOR BOVINE LIVESTOCK UNITS AND REINFORCED TANKS.

#### STRUCTURE

HOT DIPPED GALVANISED SIMPLE STEEL FRAME TYPE A2 IN ACCORDANCE WITH S.101 MINIMUM SPECIFICATIONS FOR THE STRUCTURE OF AGRICULTURAL BUILDINGS.

#### VENTILATION

TO BE PROVIDED IN ACCORDANCE WITH S.101 MINIMUM SPECIFICATIONS FOR THE STRUCTURE OF AGRICULTURAL BUILDINGS.

#### CLADDING

ROOF AND SIDE CLADDING IN ACCORDANCE WITH S102 MINIMUM STANDARDS FOR ROOF CLADDING AND SIDE CLADDING  
NOTE: VENTED SHEETING REQUIRED AT EAVES

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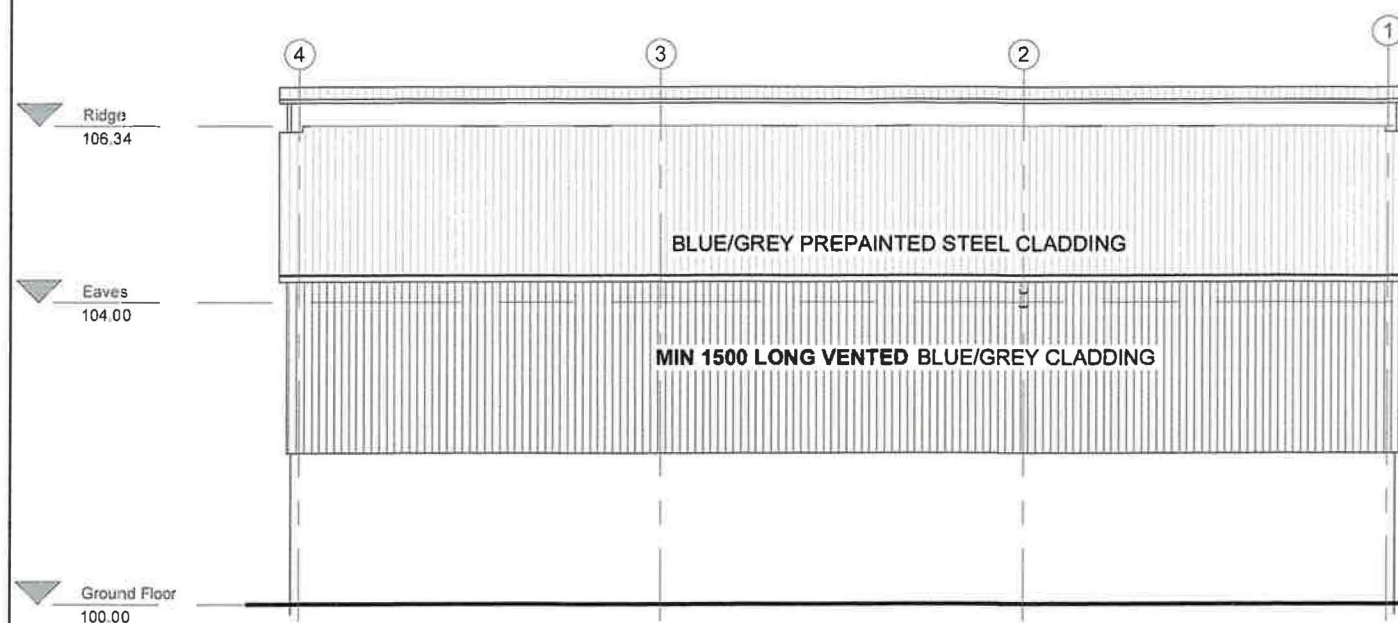
Rev No.	Description	Date
0	Issued for Planning	16-05-2023

**JVD Jamie Vaughan Design**  
Architectural Technology | Furniture | BIM  
Deerpark West, Ennistymon, Co. Clare, Ireland. V95 Y925  
Phone: +353 871626667 | Email: jamievaughandesign@gmail.com

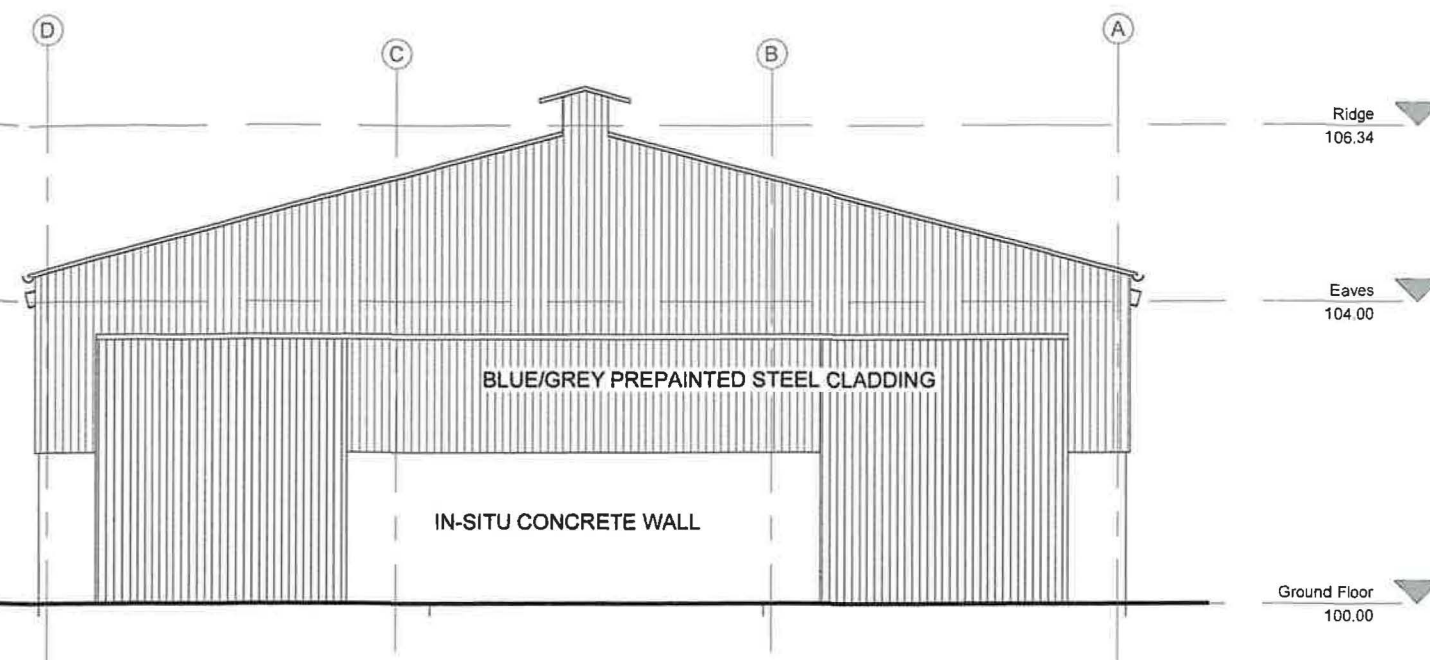
PROJECT: Slatted Shed  
CLIENT: Raphael Considine  
PROJECT ADDRESS: Pounagun, Lisdoonvarna, Co. Clare

DRAWING NAME			
Floor Plan & Section			
Date	Project number	DRAWING PURPOSE	REV
MAY 2023	2305	Planning	0
Drawn by	Scale (@ A3)	DRAWING NUMBER	
JV	1 : 100	A101	

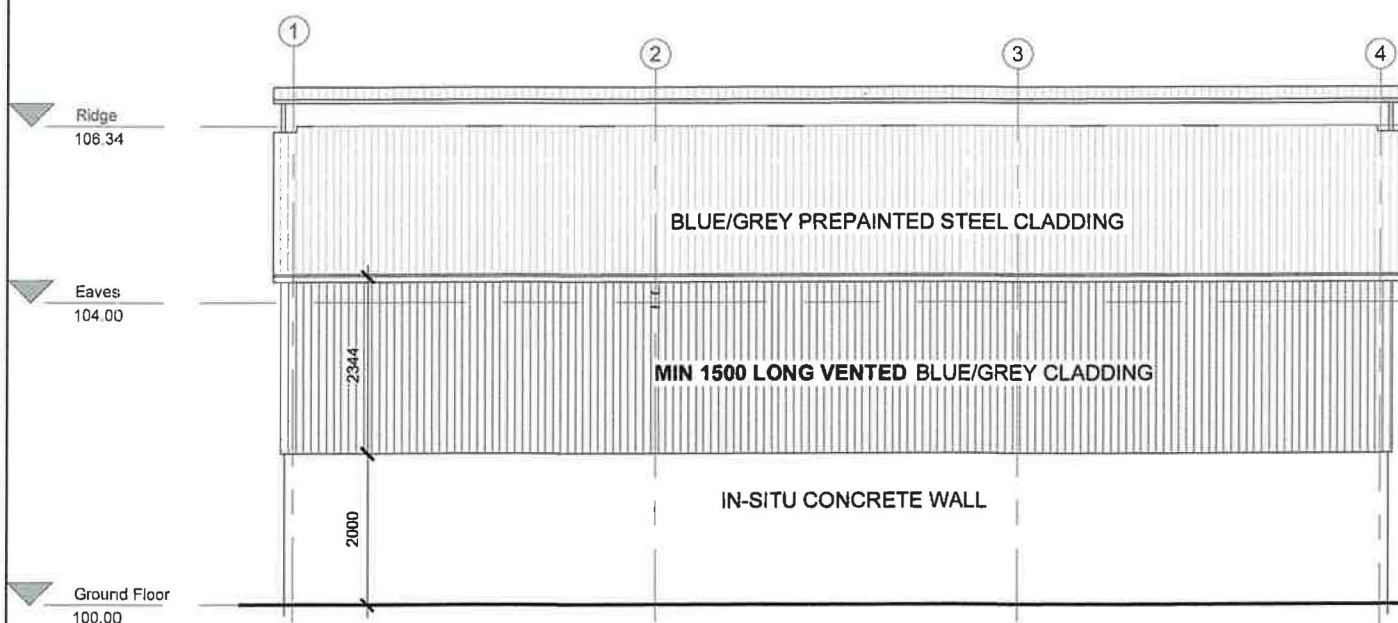




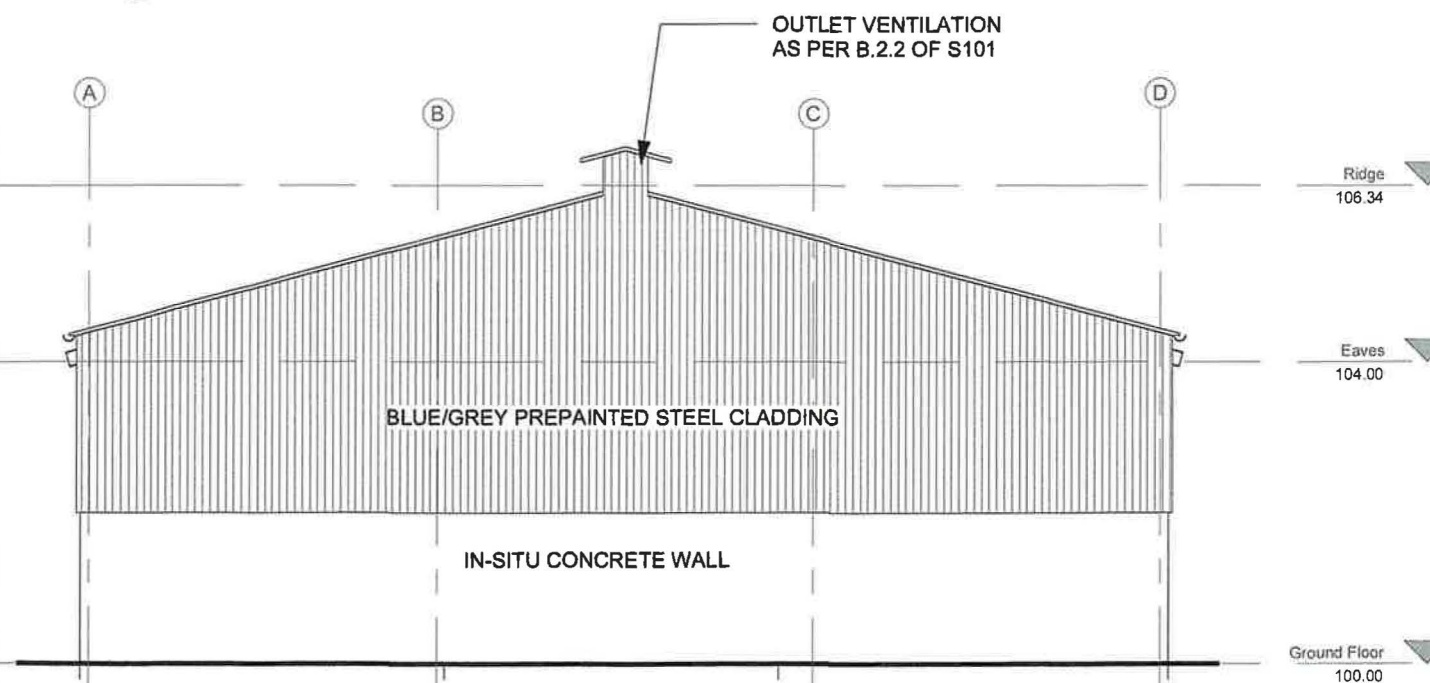
**1 South Elevation**  
Scale: 1 : 100



**3 East Elevation**  
Scale: 1 : 100



**2 North Elevation**  
Scale: 1 : 100



**4 West Elevation**  
Scale: 1 : 100

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Rev No.	Description	Date
0	Issued for Planning	16-05-2023

**JVD Jamie Vaughan Design**  
Architectural Technology | Furniture | BIM  
Deerpark West, Ennistymon, Co. Clare, Ireland. V95 Y925  
Phone: +353 871626667 | Email: jamievaughandesign@gmail.com

**PROJECT**  
Slatted Shed  
**CLIENT**  
Raphael Considine  
**PROJECT ADDRESS**  
Pounagun, Lisdoonvarna, Co. Clare

DRAWING NAME			Elevations
Date	Project number	DRAWING PURPOSE	
MAY 2023	2305	Planning	
Drawn by	Scale (to A3)	DRAWING NUMBER	REV
JV	1 : 100	A102	0