



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Jack Brehony
c/o Deirdre Foran
Lisdoonvarna
Co. Clare**

4th July 2023

Section 5 referral Reference R23-42 – Jack Brehony

Is the machinery shed being built on the farm lands at Derrynacarragh development and if so is it exempted development?

A Chara,

I refer to your application received on 14th June 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: 82020

Reference Number: R23-42

Date Referral Received: 14th June 2023

Additional Information Received: 20th June 2023

Name of Applicant: Jack Brehony

Location of works in question: Derrynacarragh, Kilmaley, Co. Clare

Section 5 referral Reference R23-42 – Jack Brehony

Is the machinery shed being built on the farm lands at Derrynacarragh 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 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on 14th June 2023 and the 20th June 2023.

AND WHEREAS Clare County Council has concluded:

- (a) The development of the construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, County Clare, constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development of the construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, County Clare, is exempted development having regard to Class 9 of Schedule 2, Part 3 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 construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, Co. Clare is considered development which is exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER *As*

Date:

4th July 2023

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

Reference No.: R23-42



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-42

Is the machinery shed being built on the farm lands at Derrynacarragh development and if so is it exempted development?

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

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


- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on 14th June 2023 and the 20th June 2023.

And whereas Clare County Council has concluded:

- (a) The development of the construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, County Clare, constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development of the construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, County Clare, is exempted development having regard to Class 9 of Schedule 2, Part 3 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 change of the construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, Co. Clare constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

4th July 2023

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

FILE REF:	R23-42
APPLICANT(S):	Jack Brehony
REFERENCE:	Whether the construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, County Clare, is not development and is or is not exempted development.
LOCATION:	Derrynacarragh, Kilmaley, County Clare
DUE DATE:	11 th July 2023

Site Location

The proposal site is located in a rural area that is approximately 1.3km north west of the settlement of Kilmaley. It is located to the site of the L8280 local road and on an area of grassland between the road and commercial forestry. There is a vacant single storey cottage to the east of the site. The views towards the site are local range views and the receiving landscape comprises of rolling hills. The site is located within the “*Western Corridor Working Landscape*” as per the Clare County Development Plan 2023-2029. The site has been partially cleared in recent times. There is a pond to the south of the proposed location of the shed that appears to be man-made. The area of the site where the shed is proposed is partially wooded. I inspected the site on the 29th June 2023.

Recent Onsite 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 Jack Brehony who states that he is seeking a Section 5 Declaration as to whether the construction of a machinery shed at Derrynacarragh, Kilmaley, County Clare, is or is not development and is or is not exempted development. Jack Brehony is the stated owner of the site.

The shed would be located 10 metres from the public road, would have a floor area of 54sqm and an overall height of 4 metres. External finishes would comprise of painted galvanised sheeting.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

S.3.(1) In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or

under land or the making of any material change in the use of any structures or other land.

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

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

Planning & Development Regulations, 2001, as amended

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

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 9

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

- 1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*
- 2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*
- 3. No such structure shall be situated within 10 metres of any public road.*
- 4. No such structure within 100 metres of any public road shall exceed 8 metres in height.*
- 5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*
- 6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

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

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

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

(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

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

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

(iv) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

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

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

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

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

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

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

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

(xi) obstruct any public right of way,

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

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, County Clare, 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 metres |
| • Proposed Floor Area | 54sqm |
| • Distance from road | 10 metres |
| • Distance from third party dwellings | > 100 metres |

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 9

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

The building would be used as a machinery storage shed.

- 1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*

The building would be used as a machinery storage shed.

- 2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or*

within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.

This floor area would not be exceeded.

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

The structure would be 10 metres from the road.

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

The height of the shed would be 4 metres.

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

There are no third party dwellings within 100 metres of the proposed shed.

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

Painted 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 for the storage of machinery.

(ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

Not applicable.

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

Not applicable in this instance.

noted - E.H.

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

Not applicable in this instance.

(iv) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

This site is located within the Western Corridor Working Landscape. Having regard to the nature of the proposed development, that nature of the proposal site and its receiving environs, and 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 6.5km from Pouldatig Cave SAC. Having regard to the nature and scale of the proposed development and the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site. An appropriate assessment screening report and determination is attached to this report.

- 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 construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, County Clare constitutes both 'works' and 'development'. However, regard has also been had to Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, County Clare, 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 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on 14th June 2023 and the 20th June 2023

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

- (a) the development of the construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, County Clare, constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development of the construction of a machinery shed on farmlands at Derrynacarragh, Kilmaley, County Clare, is exempted development having regard to Class 9 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority) hereby decides that the construction of machinery shed on farmlands at Derrynacarragh, Kilmaley, County Clare, is development and is exempted development.



A/Executive Planner
Date: 03rd July 2023

Senior Executive Planner
Date: 03/07/23

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

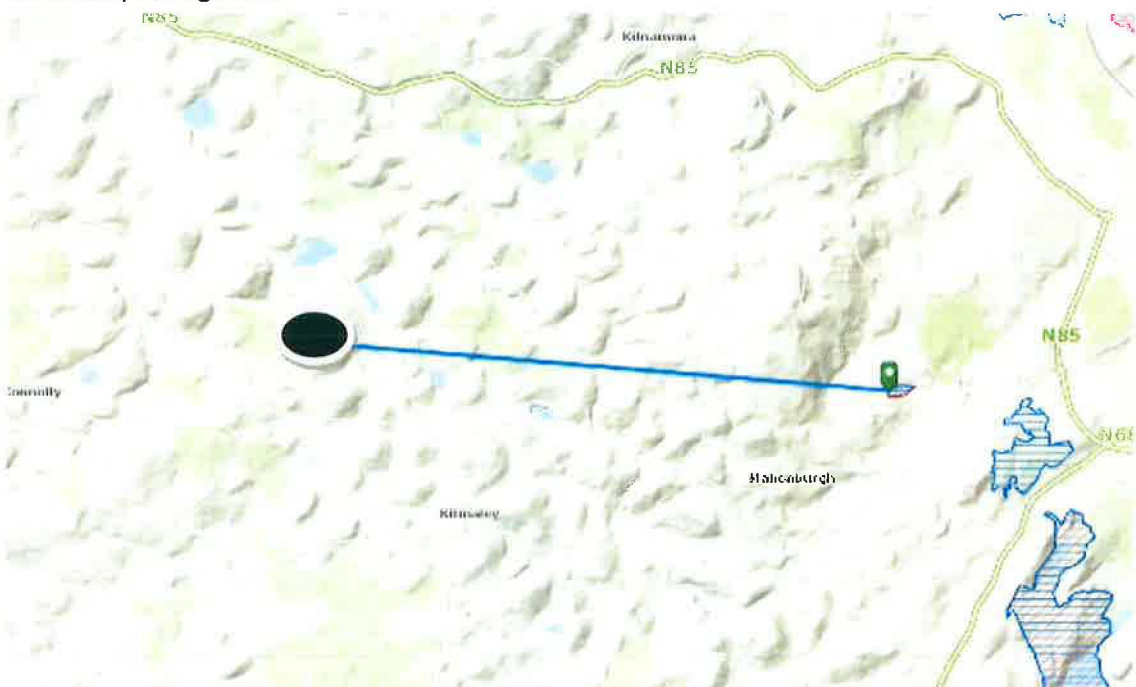
Planning File Reference	R23-42
Applicant Name	Brehony
Development Location	Derrynacarragh, Kilmaley, Co Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
<p>Machinery storage shed</p> 	

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

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project,

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.

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 Sites²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Pouldatig Cave SAC	Lesser Horseshoe bat (<i>Rhinolophus hipposideros</i>)	6.5

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	No
2	Impacts on terrestrial habitats and species.	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	No
3	Impacts on designated marine habitats and species.	<i>Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	No
4	Impacts on birds in SPAs	<i>Is the development within 1km of a Special Protection Area</i>	No
5	Indirect effects	<i>Is the development, in combination with other existing or proposed developments likely to impact 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

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

Appropriate Assessment Screening Determination	
Planning File Reference	R23-42
Proposed Development	Machinery storage shed
Development Location	Derrynacarragh
European sites within impact zone	As per report
Description of the project	
Machinery storage shed	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
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 distance from the site, beyond foraging areas etc	
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.

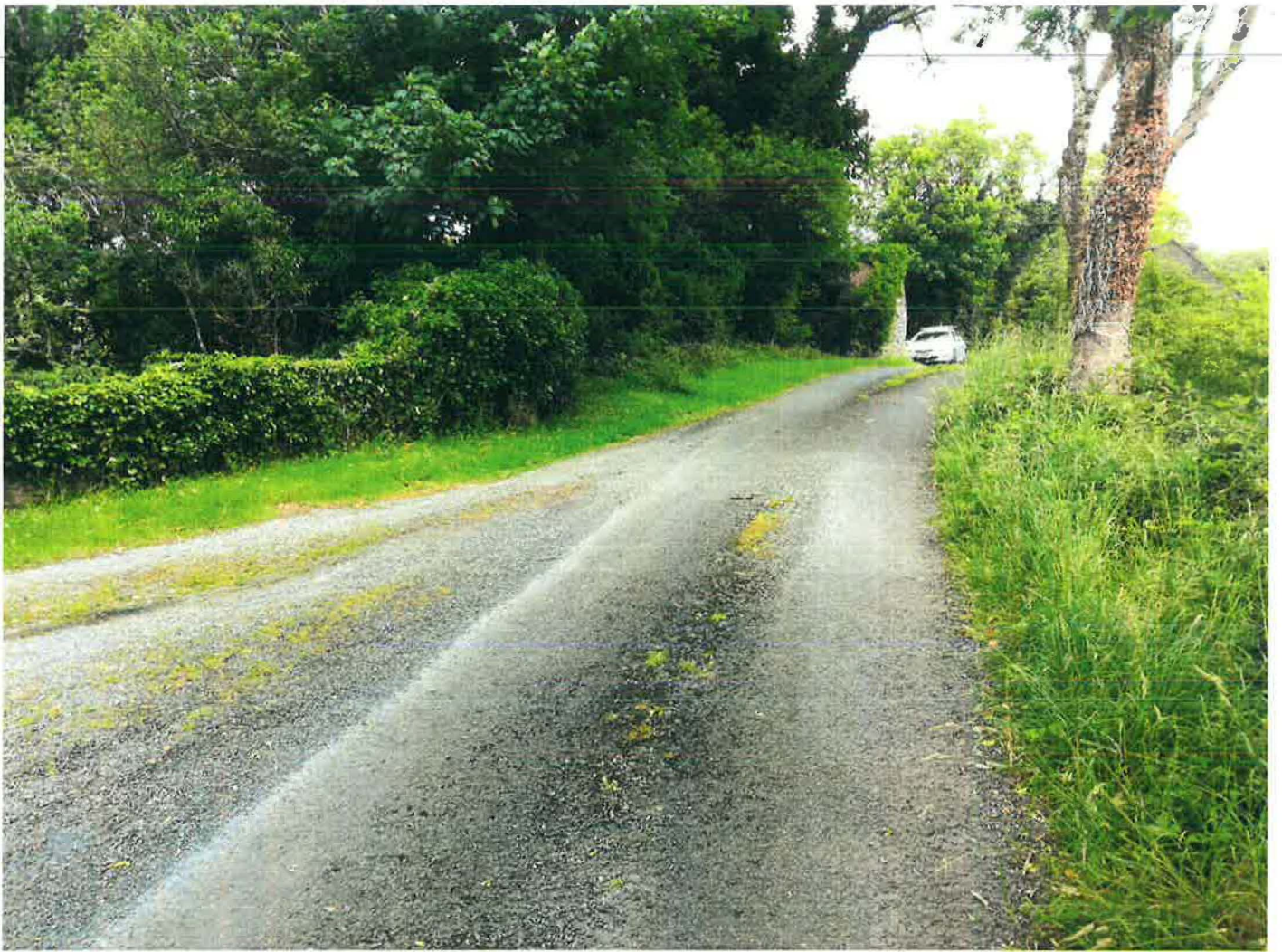
(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	No
Completed By	John O'Sullivan
Date	03 rd July 2023

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
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Jack Brehony
c/o Deirdre Foran
Lisdoonvarna
Co. Clare

15/06/2023

Section 5 referral Reference R23-42 – Jack Brehony

Is the machinery shed being built on the farm lands at Derrynacarragh development and if so is it exempted development?

A Chara,

I refer to your application received on 14th June 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 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
ARAS CONTAE AN CHLAIR
NEW ROAD
ENNIS
CO CLARE

14/06/2023 11:17:56

Receipt No. L1CASH/0/350523
***** REPRINT *****

JACK BREHONY
C/O DEIRDRE FORAN
LISDOONVARNA
CO CLARE
REF. R23-42



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

Total : 80.00 EUR

Tendered :
CHEQUES 80.00

Change : 0.00

P07

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

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

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



R23-42

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

FEE: €80

14 JUN 2023

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	JACK BREHONY DERRYNACARRAGH, CONNOLLY, CO CLARE
(b) Telephone No.:	L
(c) Email Address:	
(d) Agent's Name and address:	DEIRDRE FORAN LISDOONVARNA CO CLARE

2. DETAILS REGARDING DECLARATION BEING SOUGHT

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

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

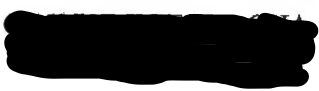
IS THE MACHINERY SHED BEING BUILT ON THE FARM LANDS AT
 DERRYNACARRAGH DEVELOPMENT AND IF SO IS IT EXEMPTED DEVELOPMENT


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

A MACHINERY SHED 9M X 6M RIDGE HEIGHT 4M FOR STORING MACHINERY FOR THE
 LANDOWNER, SITUATED 10M FROM THE PUBLIC ROAD AND > 100M FROM THE
 NEAREST DWELLING. MATERIALS ARE GALVANISED ROOF AND WALLS.

- (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)

SHED DRAWINGS; SITE LOCATION MAP; LANDHOLDINGS MAP; SITE LAYOUT PLAN

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	DERRYNACARRAGH, CONNOLLY, 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):	JACK BREHONY OWNS THE LANDS WITHIN FOLIO FILE PLAN 
(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? <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:	SHED TO BE FITTED IN JULY/AUGUST 2023

SIGNED: 
AGENT

DATE: 10-06-2023

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

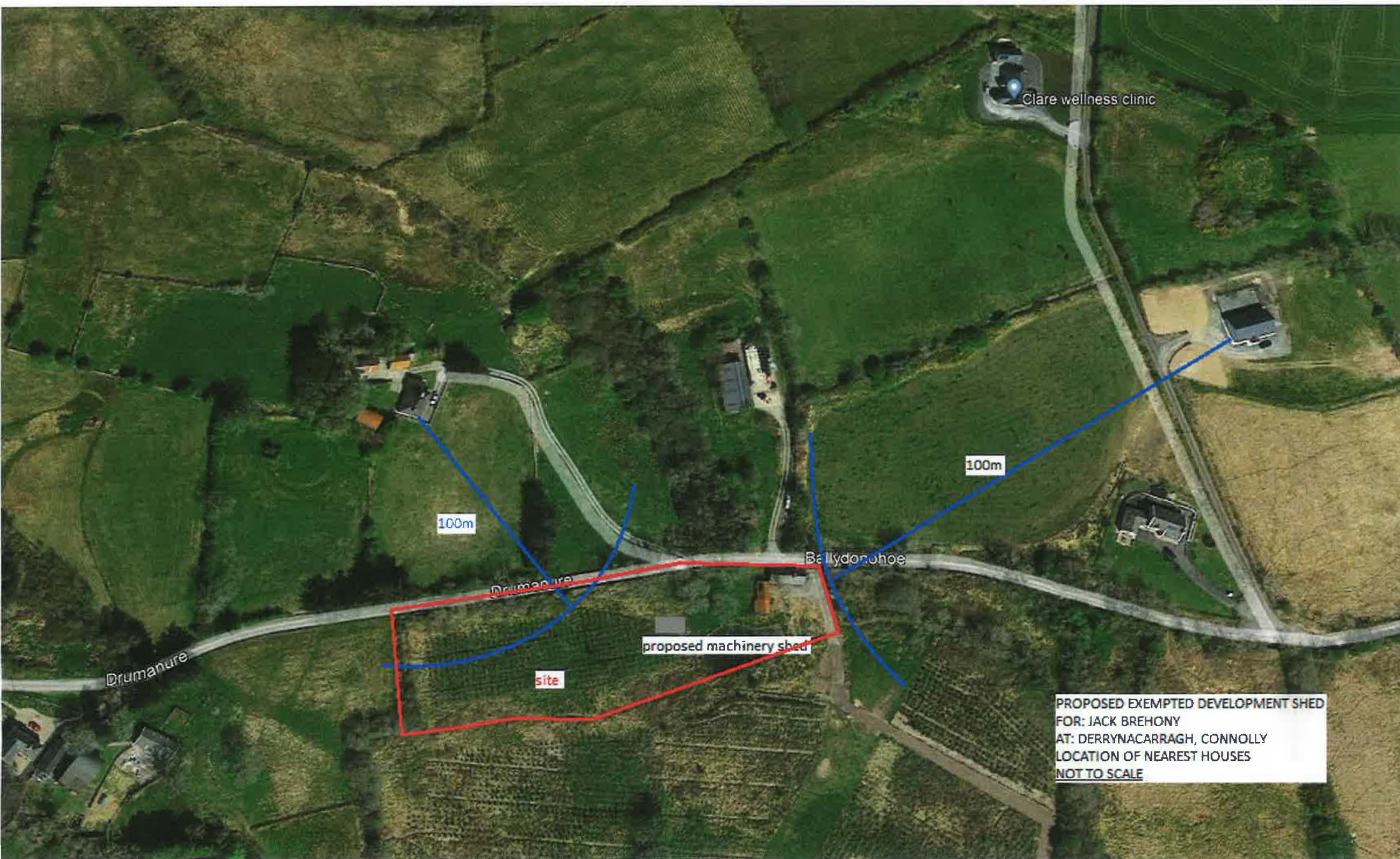
- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information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



PROPOSED SHED FINISHES
JACK BREHONY
DERRYNACARRAGH
CONNOLLY



PROPOSED EXEMPTED DEVELOPMENT SHED
FOR: JACK BREHONY
AT: DERRYNACARRAGH, CONNOLLY
LOCATION OF NEAREST HOUSES
NOT TO SCALE

Planning Pack Map

CENTRE COORDINATES:
ITM 523516,676760

PUBLISHED: 24/08/2022
ORDER NO.: 50287489_1

MAP SERIES: 1:5,000
MAP SHEETS: 4319

SITE LOCATION MAP
1/2500 10.06.23
D. FORAN - B. ENG.
JACK BREHONY
DERRYNACARRAGH

COMPILED AND PUBLISHED BY:
Ordnance Survey Ireland,
Phoenix Park,
Dublin 8,
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LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'

676975

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676975

676975

676975

Baile Uí
Dhonnchú
Ballydonohoe
1.27

0.58

0.59

1.25

0.47

0.48

0.24

0.23

0.61

1.26

1.05

0.63

4.22

4.14

1.23

0.21

0.24

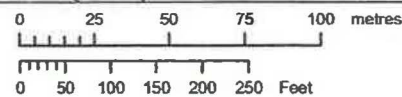
0.58

0.72

1.27

3.49

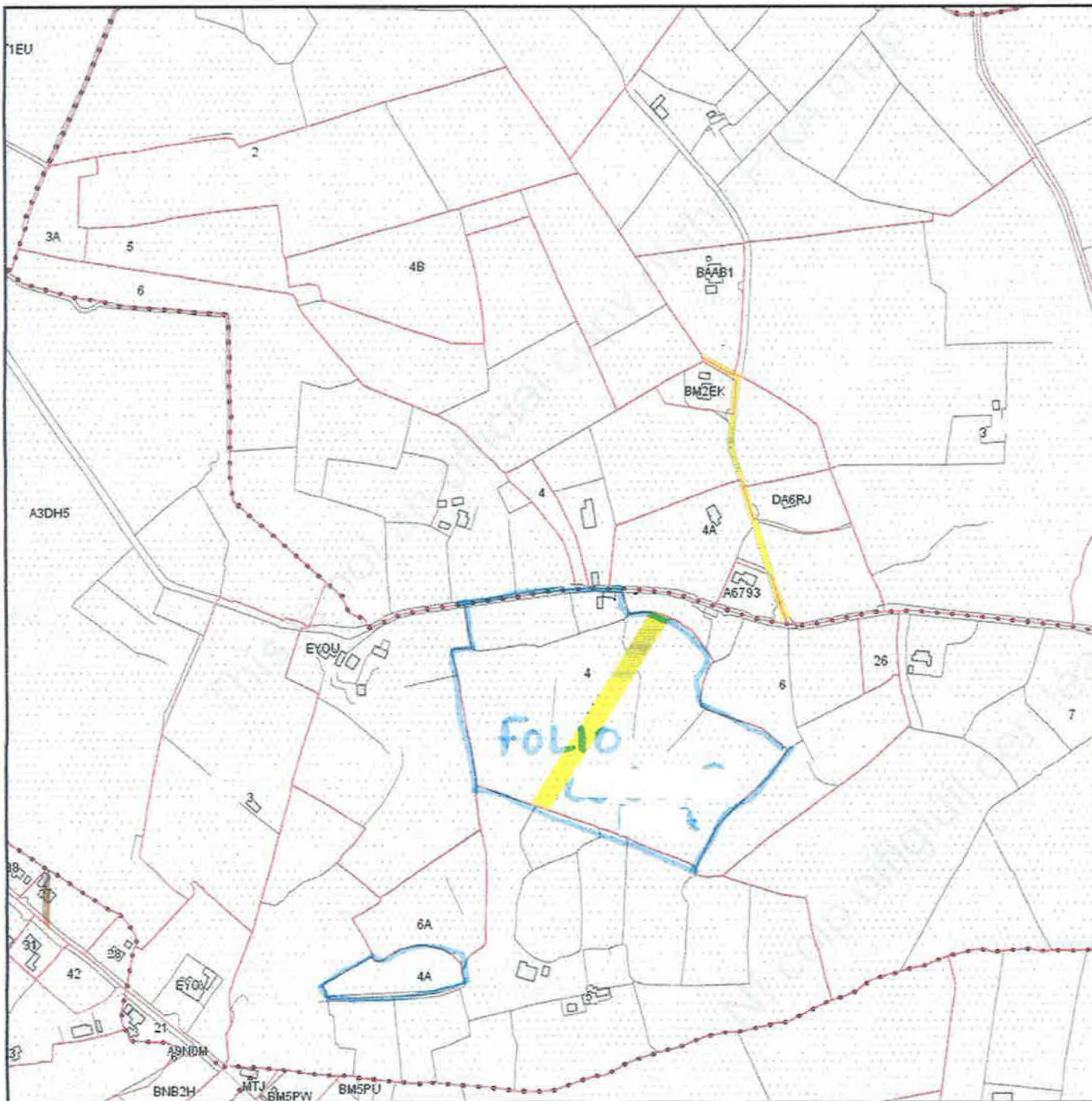
Doire na Cathrach
Derrynacarragh



OUTPUT SCALE: 1:2,500

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





The Property Registration Authority An tÚdarás Clárúcháin Maoine



Official Property Registration Map

This map should be read in conjunction with the folio.

Registry maps are based on OSi topographic mapping. Where registry maps are printed at a scale that is larger than the OSi published scale accuracy is limited to that of the original OSi Map Scale.

For details of the terms of use, and limitations as to scale, accuracy and other conditions relating to Land Registry Maps, see www.prai.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

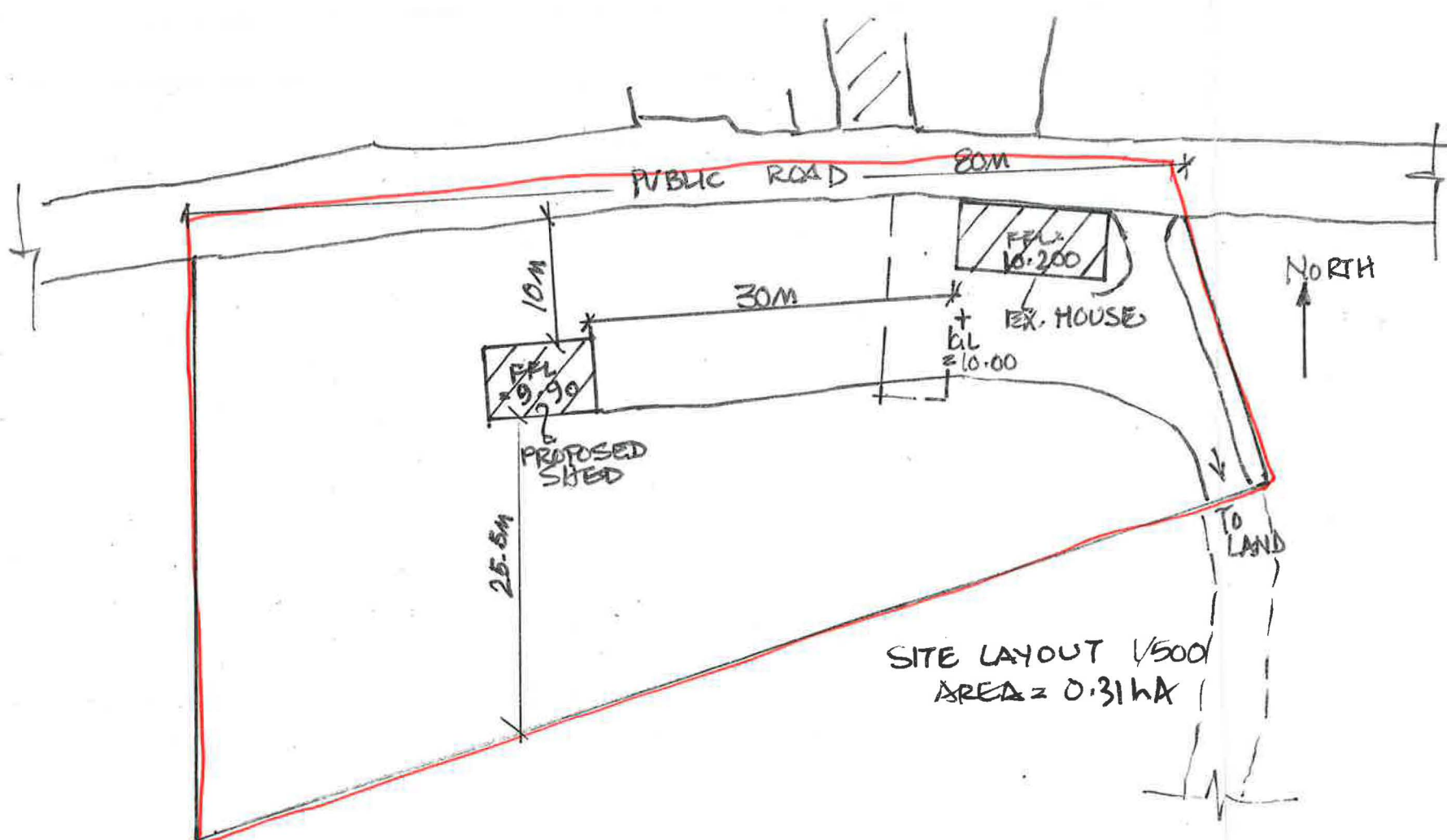
A full list of burdens and their symbology can be found at: www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent.

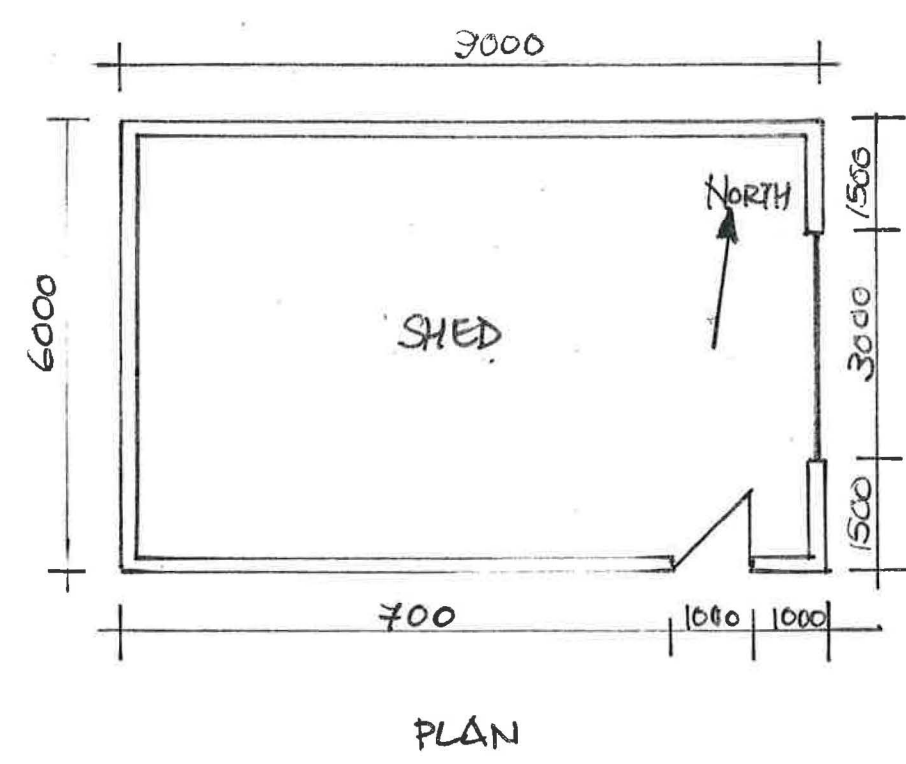
(see Section 85 of the Registration of Title Act, 1964). As Inserted by Section 62 of the Registration of Deed and Title Act 2006.

JACK BREHONY
REF: SECTION 5
REQUEST FOR DECLARATION ON
DEVELOPMENT & EXEMPTED DEVELOPMENT

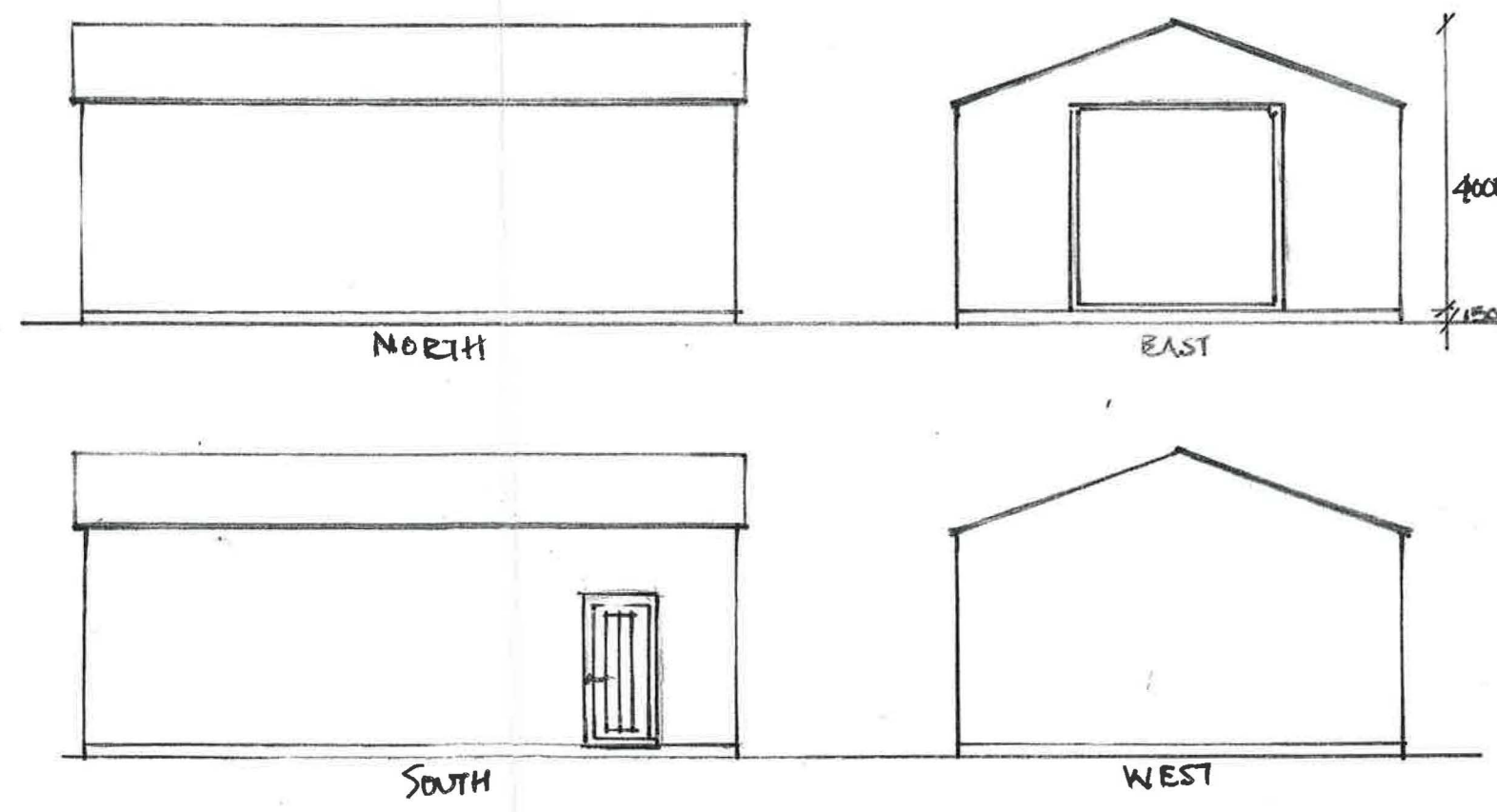




JACK BREHONY
 DERRYNACARRAGH
 CONNOLLY
 PLAN; VIEW; SITE PLAN
 PROPOSED MACHINERY
 SHED-EXEMPTED DEV.
 D.FORAN B.ENG
 087 675 0327



PLAN



1/100

VIEWS

SEE ATTACHED IMAGE
 FOR MATERIALS/COLOUR