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COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Michael G. Kenneally
c/o Patrick Conlon
Clohanmore
Cree
Co. Clare

10th August, 2023

Section 5 referral Reference R23-54 – Michael G. Kenneally

Is the construction of a livestock slatted unit at Boolynamiscaun, Miltown Malbay, Co. Clare development and if so, is it exempted development?

A Chara,

I refer to your application received on 20th July 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: 822/4
Reference Number: R23-54
Date Referral Received: 20th July 2023
Name of Applicant: Michael G. Kenneally
Location of works in question: Boolynamiscaun, Miltown Malbay, Co. Clare.

Section 5 referral Reference R23-54 – Michael G. Kenneally

Is the construction of a livestock slatted unit at Boolynamiscaun, Miltown Malbay, 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, and Article 9 as amended, including the conditions and limitations therein.

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 Kieran O'Donnell, Administrative Officer, 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, Kieran O'Donnell, Administrative Officer, hereby declare that the construction of a slatted shed at Boolynamiscaun, Miltown Malbay, Co. Clare is development and is exempted development.

Signed:


KIERAN O'DONNELL
ADMINISTRATIVE OFFICER

Date: 10th August, 2023

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

Reference No.: R23-54



Section 5 referral Reference R23-54

Is the construction of a livestock slatted unit at Boolynamiscaun, Miltown Malbay, Co. Clare development and if so, is it exempted development?

AND WHEREAS, Michael G. Kenneally 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, and Article 9 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 that the construction of a slatted shed at Boolynamiscaun, Miltown Malbay, 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

10th August, 2023

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: R23/ 54 Michael G Kenneally
APPLICANT(S):

REFERENCE: Whether the construction of slatted unit at Boolynamiscaun Miltown Malbay Co. Clare is or is not development and is or is not exempted development.

LOCATION: Boolynamiscaun Co. Clare

DUE DATE: 16/ 08/ / 23

Site Description.

The site is located in Bollynamiscaun. The following ^{ing} are located on site, a workshop, a machinery shed, a holding yard, a cubicle shed a store, ~~and~~ a collecting dry yard and a manure pit. There are no other slatted units or sheds for housing animals .

Planning History on site

None

Details submitted with the application

- land holding map outlined in blue scale 1: 2500.
- Site layout map scale 1: 500 with the site outlined in red.
- Floor plans, sections, elevations and cross sections of the proposed slatted shed scale 1: 100 and 1 : 50
- Dimensions of the slatted shed: overall height is 6.3m to ridge, and 3.7m to eaves, total length 14.4 m, width -9m (excluding overhang)
- Floor area 183.66sq.m.
- Distance from the public (254m).
- Distance from the applicant's dwelling- not on site..
- Distance from the nearest neighbouring (Uncle's house) dwelling is ~~232~~^{232.5} m to the south who has consented in writing to the development .
- Letter of consent from land owner (applicant's father)

Background to Referral

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*.

'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.

'Development' are defined in Section 3 of the *Planning and Development Act 2000, as amended* as follows:

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.

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,

Part 3 Exempted Development Rural- Article 6

Class 6

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

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

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

2. *The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*
3. *Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution*
4. *No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*
5. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*
6. *No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*
7. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

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,*
- (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line 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,*
- (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,*
- (vii) 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.

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of a slatted unit is development and is or is not exempted development.

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

Class 6

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

1. *No such structure shall be used for any purpose other than the purpose of agriculture. **This is the case.***
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 gross floor space of the proposed structure is to be 183.16 sq.m. The proposal therefore does not exceed any aggregate floor area threshold (300 sq.m) for units required for housing of livestock.***
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 effluent storage facilities adequate to serve the structure are proposed to be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements. The development therefore complies with this condition/ limitation.***
4. *No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road. **The structure including the proposed underground tank is set back 254m from the public road thus complying with this condition/limitation***
5. *No such structure within 100 metres of any public road shall exceed 8 metres in height. **The structure is 6.3m height and as such complies with this height limitation.***
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 structure complies with this requirement as the nearest neighbouring dwelling is 35m sq.m. distance (uncles dwelling) Letter of consent is on file.***

7. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure. External finishes are shown as complying with minimum specification for Agricultural buildings.*

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*

There are no previous planning permissions on site.

- (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,*

N/A.

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

N/A.

- (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.*

N/A

- (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,*

N/A 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,*

N/A 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,*

N/A 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,*

N/A

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

This is not applicable in this instance as the subject site is not located in a NHA or p NHA.

- (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 at Boolynamiscuan is or is not development and is or is not exempted development.

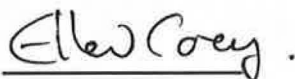
The Planning Authority in considering this referral had regard to:

- (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 at Boolynamiscaun, Miltown Malbay is development and is exempted development.



Ellen Carey
Executive Planner

Date: 09/08/23



Helen Quinn
4/ Senior Planner

Date: 10-08-2023

Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	Section 5 R23/ 54
(b) Brief description of the project or plan:	slatted shed with underground effluent tank
(c) Brief description of site characteristics:	Farm yard
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Mid Clare coast SPA	Cormorant (Phalacrocorax carbo) [A017] <input type="checkbox"/> Barnacle Goose (Branta leucopsis) [A045] <input type="checkbox"/> Ringed Plover (Charadrius hiaticula) [A137]	10km	none	no

	<input type="checkbox"/> Sanderling (<i>Calidris alba</i>) [A144] <input type="checkbox"/> Purple Sandpiper (<i>Calidris maritima</i>) [A148] <input type="checkbox"/> Dunlin (<i>Calidris alpina</i>) [A149] <input type="checkbox"/> Turnstone (<i>Arenaria interpres</i>) [A169] <input checked="" type="checkbox"/> Wetland and Waterbirds [A999]			
Carrowmore Point to Spanish Point and the islands SAC	Annex I habitats: <ul style="list-style-type: none"> • *Coastal lagoons [1150] • Perennial vegetation of stony banks [1220] • *Petrifying springs with tufa formation (Cratoneurion) [7220] • Reefs [1170] 	10km	none	No
			None	No

¹ Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

² If the site or part thereof is within the European site or adjacent to the European site, state here.

(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	none
Operational phase e.g. <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	none
In-combination/Other	none

(b) Describe any likely changes to the European site:

Examples of the type of changes to give none

consideration to include:

- Reduction or fragmentation of habitat area
- Disturbance to QI species
- Habitat or species fragmentation
- Reduction or fragmentation in species density
- Changes in key indicators of conservation status value (water or air quality etc.)
- Changes to areas of sensitivity or threats to QI
- Interference with the key relationships that define the structure or ecological function of the site

(c) Are '*mitigation*' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

☐ Yes ☒ No

Step 4. Screening Determination Statement

The assessment of significance of effects:

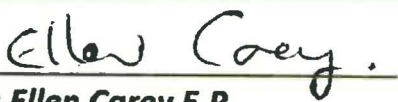
Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

Neither the landholding nor the spreadlands are with or proximate to and SAC or SPA

Conclusion: Having regard to the separation distance between the subject site and the SAC, and the lack of hydrological connection the proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives.

Tick as

Recommendation:

	Appropriate:	
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	09/ 08/23	<div style="text-align: center;">  Name: Ellen Carey E.P. </div>
Signature and Date of the Decision Maker:		



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Michael G. Kenneally
c/o Patrick Conlon
Clohanmore
Cree
Co. Clare

20/07/2023

Section 5 referral Reference R23-54 – Michael G. Kenneally

Is the construction of a livestock slatted unit at Boolynamiscaun, Miltown Malbay development and if so is it exempted development?

A Chara,

I refer to your application received on 20th July 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 Stiúrtóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

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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
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 Website: www.clarecoco.ie



**CLARE
 COUNTY COUNCIL**

Comhairle Contae an Chláir
 Clare County Council

20 JUL 2023

Received

Planning Section

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

MICHAEL G. KENNEALLY
BOOLYNAMISCAUN
MILTOWN MALBAY
Co. CLARE

(b) Telephone No.:

(c) Email Address:

(d) Agent's Name and address:

PATRICK CONLON
CLOHANNMORE
CREE Co CLARE

2. DETAILS REGARDING DECLARATION BEING SOUGHT

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

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

IS THE CONSTRUCTION OF A LIVESTOCK SLATTED UNIT AT BOOLYNAMISCAUN, MILTOWN MALBAY 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.

PROPOSED LIVESTOCK SLATTED UNIT FLOOR AREA = 183.66m
 PROPOSED PLUS EXISTING ANIMAL HOUSING IS WELL UNDER 300m² THRESHOLD.
 SITE LOCATION PROPOSED IS WELL REMOVED FROM PUBLIC ROAD.
 'LETTER OF CONSENT' ATTACHED & SIGNED BY APPLICANT'S UNCLE IN FAVOUR OF DEVELOPMENT.
 PROPOSED DEVELOPMENT IS FOR BETTER MANAGEMENT OF EXISTING STOCK WHICH ARE CURRENTLY OUT-WINTERED).
 STOCK NUMBERS : 10 SUCKLER COWS + 10 GALVES + 1 BULL.
 AREA FARMED 71.6 ACRES WITH SLURRY APPLIED TO 85%.
 APPLICANT IS AGRICULTURAL CONTRACTOR SO NO INCREASED VOLUME OF TRAFFIC IS ENVIGAGED.

- (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 (1:1000) X 2 COPIES
 SITE LAYOUT PLAN (1:500) X 2 COPIES
 PLAN, ELEVATIONS & X-SECTION (1:50 + 1:100) X 2 COPIES.
 'LETTER OF CONSENT' FROM NEARBY NEIGHBOUR X 2 COPIES
 LAND HOLDING MAPS X 2 COPIES
 'LETTER OF CONSENT' FROM LAND OWNER X 2 COPIES

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	BOOLYNAMISCAUN MILTOWN MALBAY 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):	SON OF OWNER, SEE LETTER OF CONSENT FROM TO BE TRANSFERRED TO APPLICANT IN FUTURE
(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>	HA GERARD KENNEALLY BOOLYNAMISCAUN MILTOWN MALBAY CO CLARE
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	HA YES
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	NO
(g) Were there previous planning application/s on this site? If so please supply details:	NO
(h) Date on which 'works' in question were completed/are likely to take place:	2024

SIGNED: Michael KenneallyDATE: 19-July 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



Tailte
Éireann

FARMYARD LOCATION MAP

AT BOOLYNAMISCAUN, MILTOWN, CO. CLARE

FOR Mr. MICHAEL G. KENNEALLY

Marked by Mr. P. Conlon. [C. Eng. Tech., Dip. Const.]

Clohamore, Cree, Co. Clare.

CENTRE

COORDINATES:

ITM 513625, 679152

PUBLISHED:

17/07/2023

ORDER NO.:

50346481_2

MAP SERIES:

1:5,000

MAP SHEETS:

4259

COMPILED AND PUBLISHED BY:

National Mapping Division of
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Dublin 8,
Ireland.
D08F6E4

www.tailte.ie

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0 10 20 30 40 Metres

0 20 40 60 80 100 Feet

OUTPUT SCALE: 1:1,000

CAPTURE RESOLUTION:

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

LEGEND:

To view the legend visit
www.osi.ie and search for
'Large Scale Legend'



This map was produced by
the National Mapping Division
of Tailte Éireann, formerly
Ordnance Survey (Irish 001)

FARMYARD LAYOUT PLAN

AT BOOLYNAMISCAUN, MILTOWN MALBAY, CO. CLARE

FOR Mr. MICHAEL G. KENNEALLY

DRAWN BY Mr. P. CONLON C.Eng.Tech.,Dip.Const.
Clohanmore, Cree, Kilrush, Co. Clare.

SCALE 1:500

Tailte Éireann Map 4259

DATE JULY 2023

THESE DRAWINGS HAVE BEEN PREPARED FOR
THE PURPOSES OF MAKING A PLANNING
APPLICATION ONLY.

Existing Farmyard Structures

1. Workshop 6.9 x 6.7 m.
2. Machinery Shed 9.6 x 6.7 m.
3. Holding Yard 5.3 x 8.6 m.
4. Cubicle Shed 9.6 x 8.1 m.
5. Store 8.5 x 3.3 m.
6. Collecting Dry Yard 18 x 3 m.
7. Manure Pit 5 x 4 m.

Safety

APPLICANT'S RESPONSIBILITY FOR SAFETY

Applicants are reminded that they have a duty under the Safety, Health, and Welfare at Work Act 2005 to provide a safe working environment on the farm, including farm buildings, for all people who may work on that farm. There is a further duty to ensure that any contractor, or person hired to do building work, provides and/or works in a safe environment during construction. It is the farmer's responsibility to provide a construction stage project supervisor.

SAFETY DURING CONSTRUCTION

Farmer/Applicant Responsibility: Certain construction dangers may be encountered in the course of building or conversion work. Neither the Minister or any official of the Department will be in any way liable for any damage, loss or injury to persons, animals or property in the event of any occurrence related to the development and the applicant shall fully indemnify the Minister or any official of the Minister in relation to any such damage, loss or injury howsoever occurring during the development works.

Dangers: If any or all of the work is undertaken by the applicant/farmer he/she should seek competent advice and undertake all temporary work required to ensure the stability of excavations, superstructure, stanchion foundations and wall foundations, also to divert any drains, springs or surface water away from the works, and to guard against possible wind damage, or any other foreseeable risk.

Power Lines: Farm buildings shall not be constructed under or nearer than 10m to an overhead power supply. If advice is required, or if power lines need to be diverted, it is the applicant's responsibility to contact, in writing, the local ESB supervisor before construction commences, and then to follow the ESB conditions.

Danger to children: It is the applicant's responsibility to prevent children from playing or spending time in the vicinity of any building work.

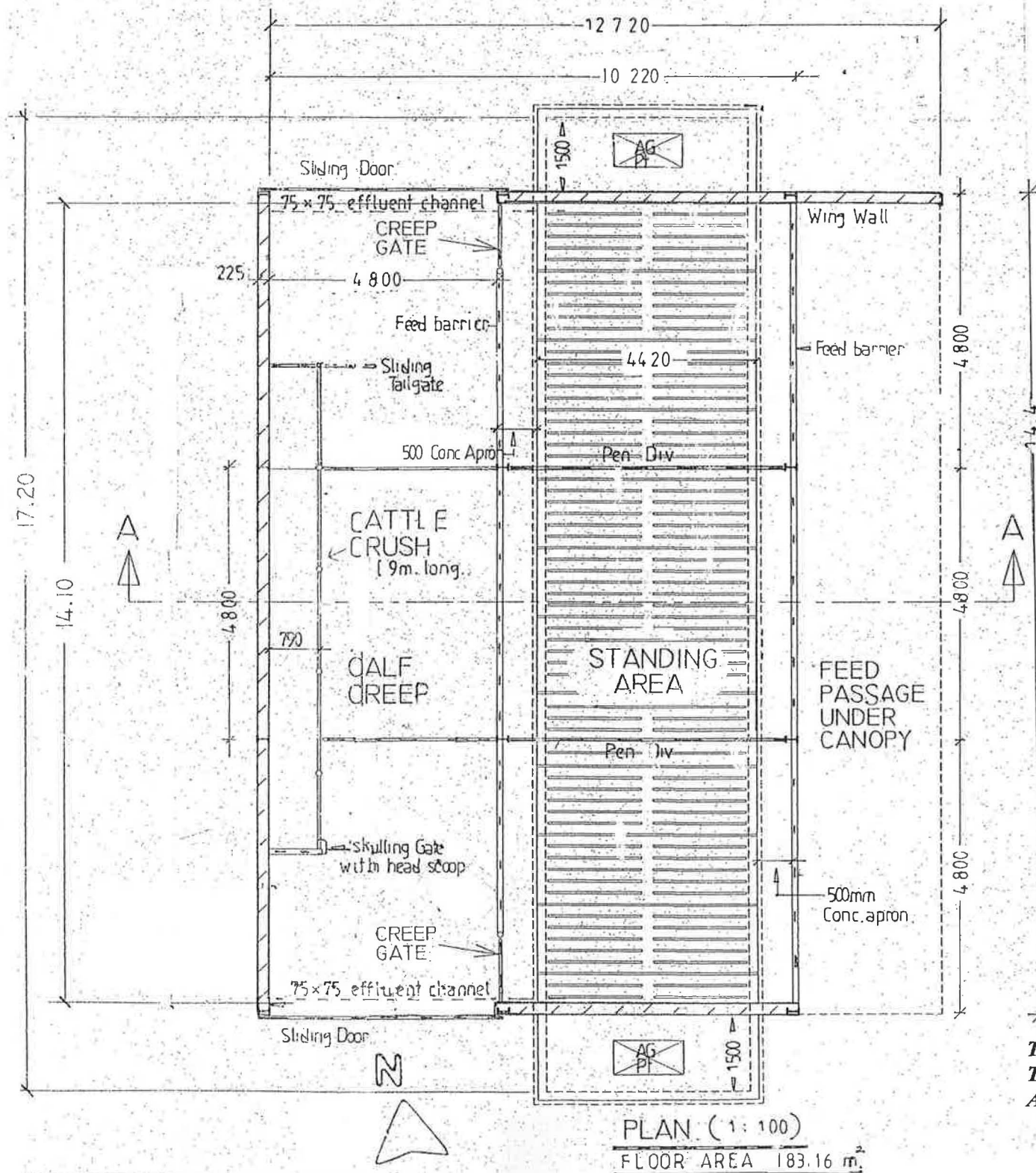
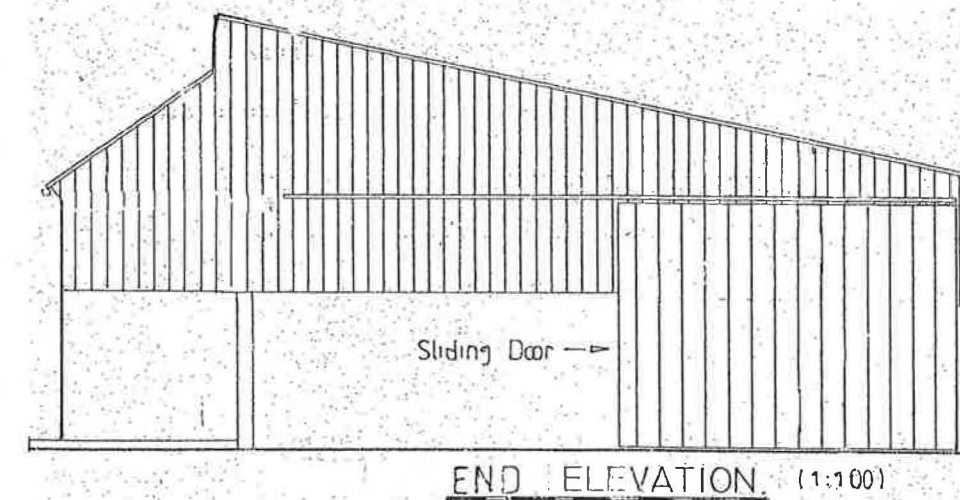
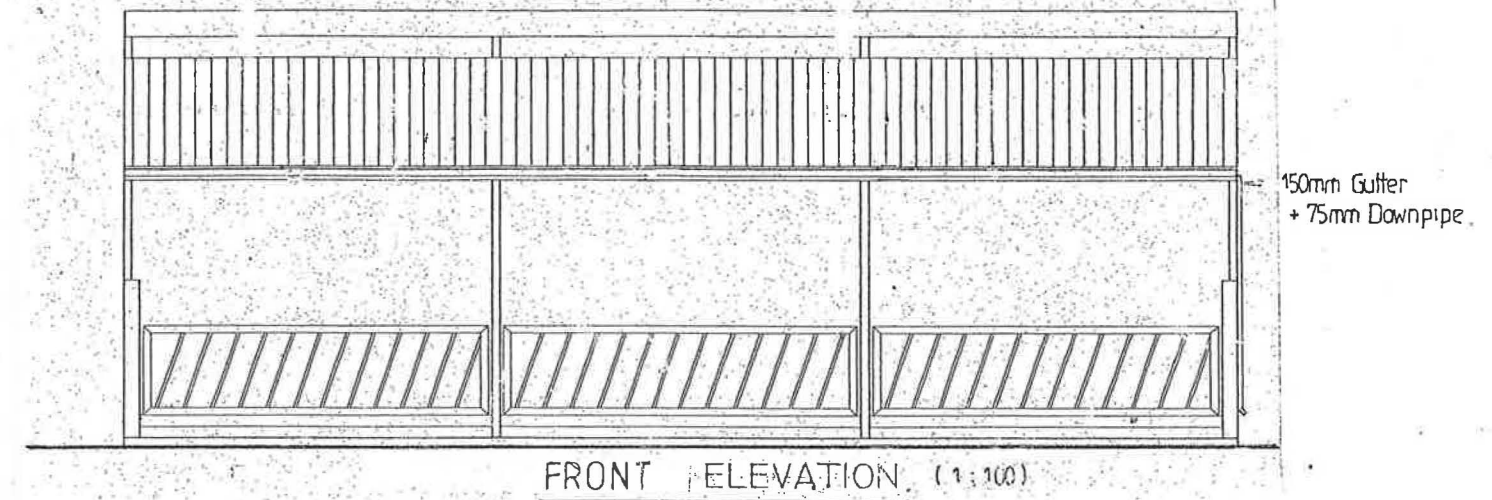
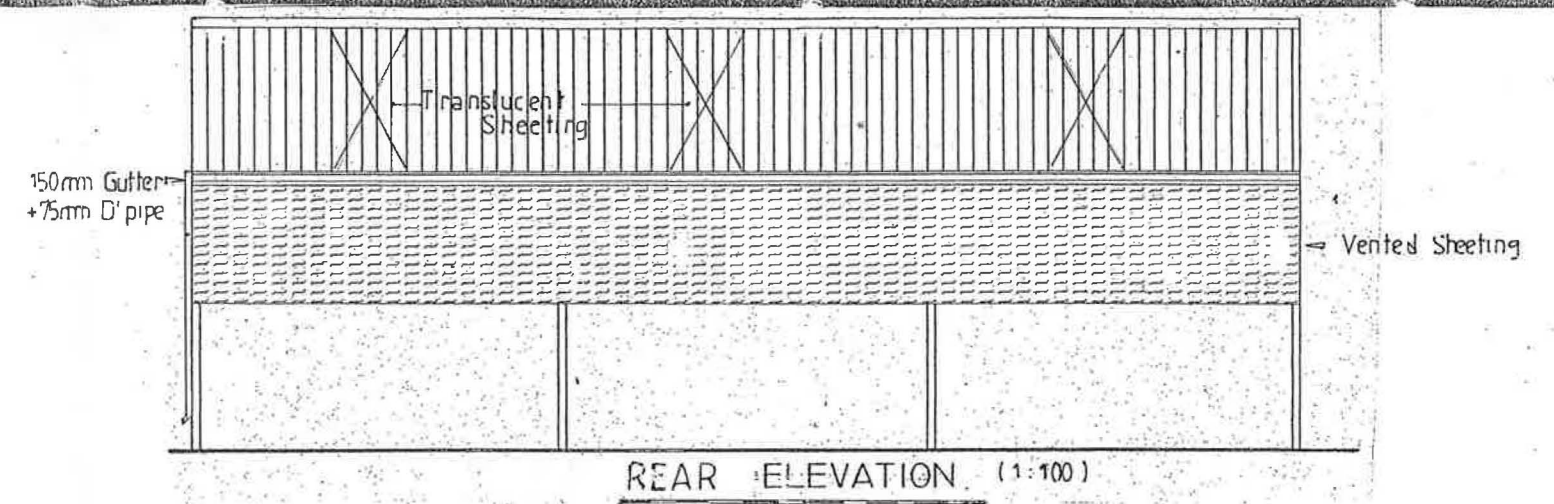
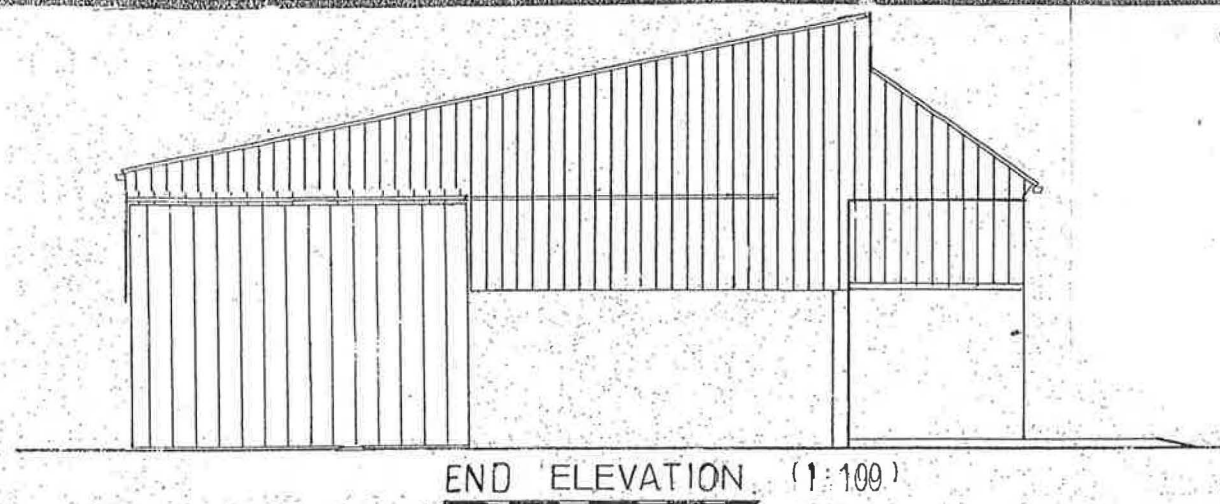
PROPOSED SLATTED UNIT
P.E.F.L. 19.77 P.R.L. 26.11

0.21

0.24

1.37

1.3



THESE DRAWINGS HAVE BEEN PREPARED FOR
THE PURPOSES OF MAKING A PLANNING
APPLICATION ONLY.

PROPOSED LIVESTOCK SLATTED UNIT

AT BOOLYNAMISCAUN, MILTOWN MALBAY, CO. CLARE

FOR Mr. MICHAEL G. KENNELLY

DRAWN BY Mr.P. CONLON C.Eng.Tech.,Dip.Const.
Clohanmore,Cree,Kilrush,Co.Clare.

DATE JULY 2023

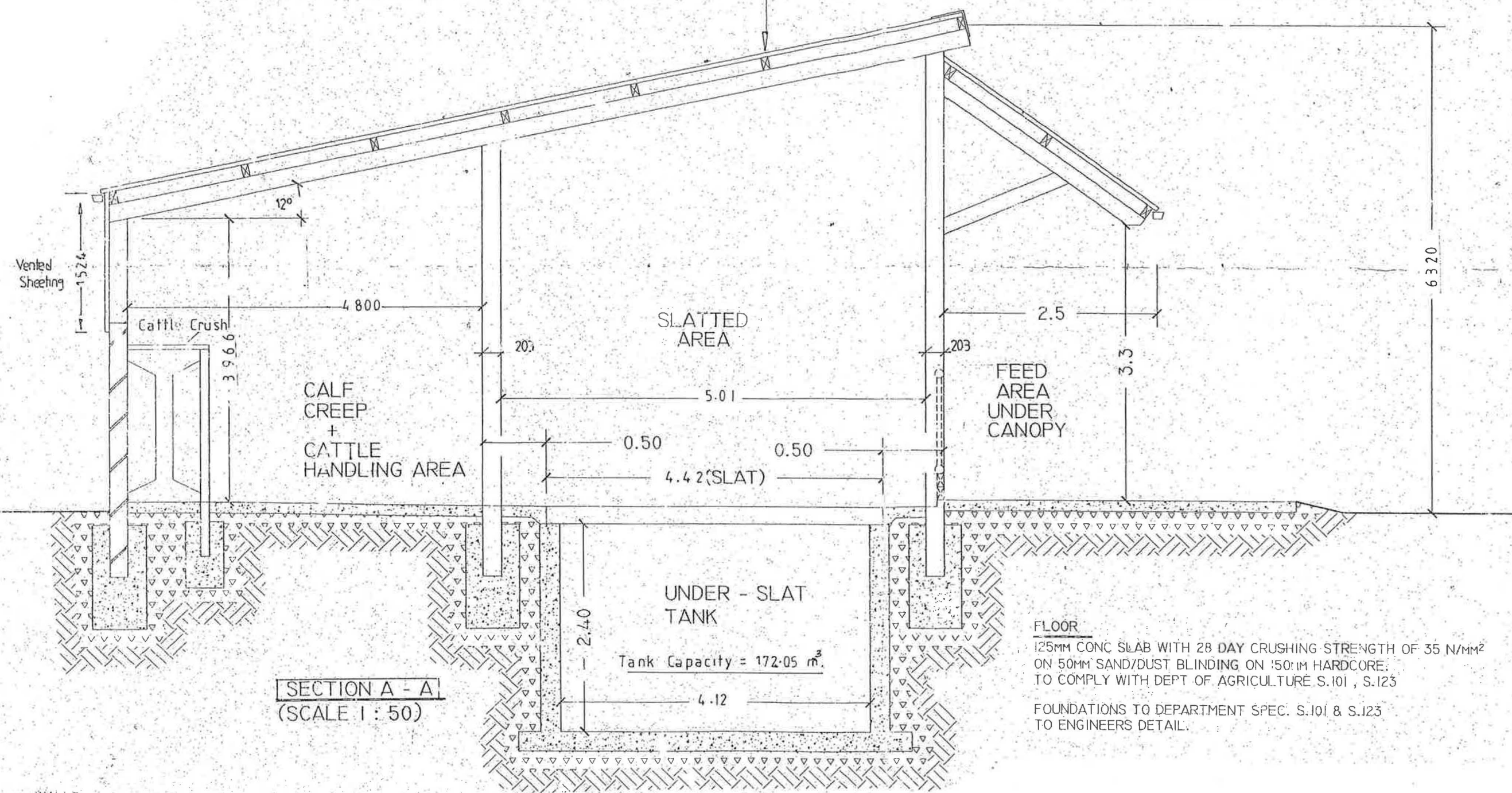
SCALE 1:100 +1:50

Sheet 1

of 2

ALL WORKS TO COMPLY AND ADHERE WITH DEPT AGRICULTURE
MINIMUM SPECIFICATIONS- S100,S101, S123,S147.

ROOF
"TEGRAL AGRIBUILD 2000" STEEL CLADDING OR
FIBRE-CEMENT CLADDING ON 175mm x 75mm TREATED TIMBER
PURLINES WITH D. P. C. STRIP
COVERING ON DIPPED STEEL STANCHIONS TO COMPLY
WITH DEPT OF AGRICULTURE SPECIFICATION S.123, S.101 & 102



SECTION A - A
(SCALE 1:50)

WALLS
TO CONSIST OF EITHER 225MM CONC BLOCK WALL CONSTRUCTION
PLASTERED BOTH INTERNALLY & EXTERNALLY OR OF 225MM
SHUTTERED SOLID CONC WALL WITH 28 DAY CRUSHING
STRENGTH OF 35 N/MM² TO COMPLY WITH DEPT OF AGRICULTURE
S.101, S.102 & S.123

FLOOR
125MM CONC SLAB WITH 28 DAY CRUSHING STRENGTH OF 35 N/MM²
ON 50MM SAND/DUST BLINDING ON 150MM HARDCORE
TO COMPLY WITH DEPT OF AGRICULTURE S.101, S.123

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

THESE DRAWINGS HAVE BEEN PREPARED FOR
THE PURPOSES OF MAKING A PLANNING
APPLICATION ONLY.

PROPOSED LIVESTOCK SLATTED UNIT

AT BOOLYNAMISCAUN, MILTOWN MALBAY, CO. CLARE.

FOR Mr. MICHAEL G. KENNELLY

DRAWN BY Mr. P. CONLON C.Eng.Tech.,Dip.Const.
Clohanmore,Cree,Kilrush,Co.Clare.

SCALE 1:50 + 1:100

SCALE 1:100 + 1:50

DATE JULY 2023

Sheet 2
of 2

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

20/07/2023 12:14:44

Receipt No. L1CASH/0/352085

***** REPRINT *****

MICHAEL G. KENNEALLY
BOOLYNAMISCAUN
MILTOWN MALBAY
CO. CLARE

COMHAIRLE

CONTAE

SECTION 5 REFERENCES 80.00

GOODS 80.00

VAT Exempt/Non-vatable

AN CHLÁIR

Total : 80.00 EUR

Tendered :
CHEQUES 80.00

Change : 0.00

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