



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Sean Connole & Amy McCormack  
c/o Deirdre Foran  
Lisdoonvarna  
Co. Clare**

**3rd March 2023**

**Section 5 referral Reference R23-7 – Sean Connole & Amy McCormack**

Is the animal shed and concrete yard built in Derreen East, Fanore development and if so, is it exempted development?

A Chara,

I refer to your application received on 8th February 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](http://www.pleanala.ie)

Mise, le meas

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

**An Roinn Pleanála  
An Stiúthóireacht Forbairt Gheilleagrach**  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department  
Economic Development Directorate**  
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



**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:**

81328

**Reference Number:**

**R23-7**

**Date Referral Received:**

**8th February 2023**

**Name of Applicant:**

**Sean Connole & Amy McCormack**

**Location of works in question:**

**Dereen East, Fanore, Co. Clare**

**Section 5 referral Reference R23-7 – Sean Connole & Amy McCormack**

Is the animal shed and concrete yard built in Derreen East, Fanore 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 shed for housing of sheep 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 shed for the housing of sheep, is not 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 and having regard to Article 9 (1) (vii) (viiA) (viiB) (viiC).

**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 shed for housing sheep along with all associated works at Dereen East, Fanore, Co. Clare is considered development which is not exempted development.

Signed:

  
GARETH RUANE  
SENIOR EXECUTIVE PLANNER

A-6

Date:

3rd March 2023

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

**Reference No.: R23-7**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R23-7**

**Is the animal shed and concrete yard built in Derreen East, Fanore development and if so, is it exempted development?**

**AND WHEREAS, Sean Connole & Amy McCormack** 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 –**

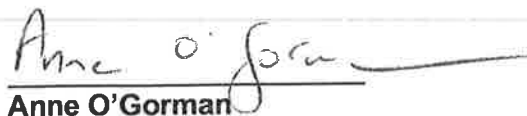
- (a) Sections 2 and 3 of the Planning and Development Act 2000, as amended,
- (b) Class 6, Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (c) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended.
- (d) The details and drawing as indicated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

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

- (a) the development consisting of the construction of a shed for housing of sheep 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 shed for the housing of sheep, is not 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 and having regard to Article 9 (1) (vii) (viiA) (viiB) (viiC).

**THEREFORE:** The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the construction of a shed for housing sheep along with all associated site works at Dereen East, Fanore, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

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

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

**3rd March 2023**

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

**FILE REF:** 23/ 7  
**APPLICANT(S):** Sean Connole and Amy Mc Cormack  
**REFERENCE:** Whether an animal shed and concrete yard built in Dereen East Fanore is or is not development and is or is not exempted development.  
**LOCATION:** Fanore, Co. Clare  
**DUE DATE:** 6<sup>th</sup> March 23

**Site Location**

The proposal site outlined in red ( 0.49ha) is located on the east side of the R477, ( scenic route) approximately 850m southwest of the village of Fanore. The site is located in the Burren Uplands landscape character area. The site is relatively flat throughout and is bound on all sides by stone walls . The boundary to the south is supplemented by hedging. There is an archaeological monument to the rear of the site the zone of notification for which overlaps with the site.

There are three other houses to the south of the subject site .

**Recent Planning History**

22/ 1151 Amy McCormack & Sean Connole

Application to RETAIN the new entrance onto the public road, created to replace the original entrance, at a new and safer location along the road frontage of the field & all other associated site and ancillary works.

The planning Authority made the following recommendation:

The Planning Authority advised of the provisions of Section 34(12) of the Planning & Development Act 2000 as amended as follows:

*"A planning authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required that one or more than one of the following was carried out—*

- (a) an environmental impact assessment,*
- (b) a determination as to whether an environmental impact assessment is required, or*
- (c) an appropriate assessment."*

Having regard to the foregoing it was determined that the application, an appropriate assessment/ NIS would have been required if the application for permission had been made before the development commenced. As such the Planning Authority was precluded from determining this application.

21/ 765 Mary & Christopher Mc Cormack. Permission refused permission to build a new dwelling, install a wastewater treatment system and all associated site and ancillary works. The reasons for refusal were:

1. The subject site is located in the countryside, within the 'Areas of Special Control', and identified as being an area under strong urban pressure, where it is an objective of the Clare County Development Plan 2017-2023 as set out under CDP 3.11, to permit a new single house for the permanent occupation of an applicant subject to demonstrating compliance with criteria as a 'local rural person' with a "local Rural Housing Need". Having regard to the details submitted, the Planning Authority considers that the applicant does not comply with the criteria as set out in CDP 3.11 of the Plan, as their housing need has previously been met in this rural area. Accordingly the proposed development would materially contravene objective CDP 3.11 of the Clare County Development Plan 2017-2023, and would conflict with the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government in April, 2005. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The development would endanger public safety by reason of a traffic hazard because of the proposed provision of an access onto a heavily trafficked Regional Route at a point where there is a continuous white line in the road and where visibility is restricted by reason of the horizontal and vertical alignment of the road. The proposed development would therefore endanger public safety by reason of a traffic hazard.

20/ 850 Amy Mc Cormack. Application for PERMISSION to build a new dwelling, install a wastewater system, new entrance to the public road and all associated site and ancillary works.  
WITHDRAWN

06/ 3128 Conole Developments. Outline permission refused to construct a dwelling house at Derreen East Fanore

- Failure to comply with rural settlement policy
- The development would be excessively prominent and would detract from the scenic amenities of the area.

( based on policies and objectives of the Clare Co Development Plan 2005- 2011)

06/ 2825 Incomplete application

02/ 1958 John Mc Namara . Permission refused for OUTLINE permission to construct 2 No. dwelling houses with individual septic tanks and percolation areas and separate entrance/exit

00/ 716 John Mc Namara . Planning permission granted to construct dwelling house and septic tank

**UD22/ 013 Warning was served in June 2022 re:**

1. The carrying out of excavations and ground works within a zone of notification of an archaeological monument.
2. Construction of a new access on to the R477 , a regional road without the benefit of planning permission.

### **Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Sean Conole and Amy Mc Cormack.

The applicant is seeking a Section 5 Declaration as to whether an animal shed and concrete yard built in Dereen East Fanore is or is not development and is or is not exempted development.

### **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.*

#### *Exempted Development*

#### 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 Article 6 , 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.

## Assessment

### Particulars of the Development

- Details of dimensions of shed -

- Dimensions of concrete yard as per drawing submitted =29.4 sq.m.-
- Total height = 8m at highest ridge
- Distance from the public road- 53m
- Floor area of roof area of shed= 21.12 sq.m.
- Distance from the nearest dwellings: Sotschecks: 16m , Mc Donaghs : 62m

The application is accompanied by:

- An aerial photo showing the location of occupied dwellings within 100m of the sheds.
- Letter of consent from Carmel Mc Donagh confirming she lives within 100m of the shed and stating that it is for housing animal and she has no objection to it.
- Letter of consent from the Sotscheks family confirming they live within 100m of the shed and stating that it is for housing animal and that they have no objection to it.

Having regard to the site inspection the shed does not have slatted unit floor and there was no indication on site of provision of any effluent storage facility for dung and seepage.

Planning and Development Regulations 2001 (as amended) Schedule 2 Article 6 , 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.*

***The stated use is for housing of animals. The herd/ flock number has been provided . The agent advised it is for the housing of sheep.***

*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 floor area is 21.2 sq.m.***

*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*

***No details of proposal for effluent storage/ management have been provided. The shed constructed does not include slated flooring and as such effluent would require to be collected from the shed.***

*4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*

***The shed is set back 53m from the public road.***

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

***The shed is 8m at its highest point.***

*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.*

***No details of effluent storage location have been received, so it is not clear that this limitation can be complied with notwithstanding the letters of consent on file from nearby neighbours.***

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

***Metal sheeting is painted. See photos under 22/ 1151 also.***

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:

7. 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

**N/A**

- (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,*

**N/A ( this is the subject of 22/ 1151)**

- (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) *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,*

**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**

- (vi) *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.*

***The subject site is located on a scenic route and within a designed Heritage Landscape, however it is not considered that the structure interferes with the character of the landscape given its agricultural appearance and cluster of buildings in the vicinity.***

- (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,*

***The development comprises excavation within the zone of notification associated with an objects of archaeological interest comprising a national monument CL004- 010 Enclosure the preservation, conservation or protection of which is an objective of a development plan. The site is also within an archaeology zone having regard to the extent and number of monuments nearby.***

*(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,*

***It is unknown if in the course of works carried out to date included the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places***

*(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,*

***Having regard to the information accompanying the application, it is not possible to screen out potential for significant effects on a European site. See screening report attached.***

*(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."*

***The Blackhead Poulsallagh Complex is a proposed Natural Heritage Area ( pNHA ) as well as being a designated European site ( Blackhead Poulsallagh Complex SAC 00020) under the Habitats Directive. It is not clear having regard to the information received to date whether the works carried out to date have had or continue 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,*

***Works on site which are the subject of pl. 22/ 1151 are unauthorized.***

*(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,*

***N/A***

*(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,*

***N/A***

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

***N/A***

*(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.*

**N/A**

### **Conclusion**

Having regard to the above it is considered that the proposed development constitutes both 'works' and 'development' which are **not** 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.

### **RECOMMENDATION**

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

Whether the construction of an animal shed and concrete yard built in Dereen East 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 shed for housing of sheep 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 shed for the housing of sheep, is not 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 and having regard to Article 9 (1) (vii) (viiA) (viiB) (viiC) .

**Now therefore Clare County Council (Planning Authority), hereby decides that construction of a shed for housing sheep along with all associated works at Dereen East is development and is not exempted development.**

Ellen Carey

Name: Ellen Carey

E.P.

Date

28/2/23.

GR

Name: Garreth Ruane

Senior Executive Planner

Date

02/03/23

## Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	Section 5 R 23/ 7
(b) Brief description of the project or plan:	Whether an animal shed and concrete yard built in Dereen East Fanore is or is not development and is or is not exempted development
(c) Brief description of site characteristics:	Disturbed ground , excavated
(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 <sup>1</sup>	Distance from proposed development <sup>2</sup> (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Blackhead to Poulsallagh Complex SAC 000029	Reefs [1170] Perennial vegetation of stony banks [1220] Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-	Adjacent / opposite side of R477	Unknown	Yes

	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]			

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

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

STEP 3. Assessment of Likely Significant Effects	
<b>(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:</b>	
<b>Impacts:</b>	<b>Possible Significance of Impacts: (duration/magnitude etc.)</b>
Construction phase e.g. <ul style="list-style-type: none"> <li>• Vegetation clearance</li> <li>• Demolition</li> <li>• Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>• Dust, noise, vibration</li> <li>• Lighting disturbance</li> <li>• Impact on groundwater/dewatering</li> <li>• Storage of excavated/construction materials</li> <li>• Access to site</li> <li>• Pests</li> </ul>	Unknown
Operational phase e.g. <ul style="list-style-type: none"> <li>• Direct emission to air and water</li> <li>• Surface water runoff containing contaminant or sediment</li> <li>• Lighting disturbance</li> <li>• Noise/vibration</li> <li>• Changes to water/groundwater due to drainage or abstraction</li> <li>• Presence of people, vehicles and activities</li> </ul>	Unknown

<ul style="list-style-type: none"> <li>• Physical presence of structures (e.g. collision risks)</li> <li>• Potential for accidents or incidents</li> </ul>	
In-combination/Other	Unknown – no assessment or information received regarding in-combination effects with development for retention 22/ 1151 . P.A. was precluded from determining same having regard to provisions of Section 34 (12) of the Planning and Development Act 2000 as amended.

(b) Describe any likely changes to the European site:	
<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> <li>• Reduction or fragmentation of habitat area</li> <li>• Disturbance to QI species</li> <li>• Habitat or species fragmentation</li> <li>• Reduction or fragmentation in species density</li> <li>• Changes in key indicators of conservation status value (water or air quality etc.)</li> <li>• Changes to areas of sensitivity or threats to QI</li> <li>• Interference with the key relationships that define the structure or ecological function of the site</li> </ul>	Unknown

(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>Planning Authority does not know if mitigation was under taken as part of the works to construct the shed and concrete yard . If mitigation works were carried out</p>

they would have required the benefit of an NIS.

#### Step 4. Screening Determination Statement

##### The assessment of significance of effects:

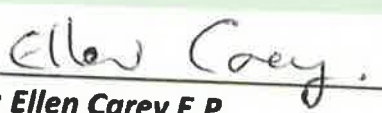
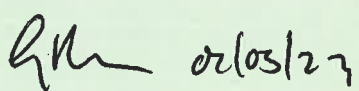
Describe how the proposed development (alone or in-combination) is/is **not likely** to have significant effects on European site(s) in view of its conservation objectives.

Having regard to the information received it is not possible for the Planning Authority to rule out significant effects on the European sites

- There is a potential for impacts on surface water quality arising from the construction which has already taken place which could lead to significant effects on the Qualifying Interest Features and Special Conservation Interests of the associated European sites.
- Works for retention may have had a significant impact on the qualifying interest of the Blackhead to Poullsalagh Complex SAC which located on the opposite side of the R477.
- No construction methodology has been submitted to provide sufficient detail or evidence in relation to whether or not mitigation measures were required during the course of construction works associated with the works carried out.
- Given the proximity to the marine environment for which a number of the Qualifying Interests of the designated European sites have a "hydrological regime" attribute, which incorporates water quality, mitigation measures to prevent the egress of fine sediments and/or pollutants and contaminates to the marine environment would be necessary.
- Given the potential requirement for mitigation measures to ensure no significant effects, it is considered that the undertaking of appropriate assessment together with the preparation of a Natura Impact Statement would have been required for the works ( which were carried out without the benefit of planning permission and are now the subject of the retention application 22/ 1151).
- Potential for In combination effects with works carried out on site ( entrance and access road ) which is the subject of a 22/ 1151 have not been assessed.



**Conclusion:** Having regard to the information received the Planning Authority cannot conclude that the works undertaken to construct the shed and yard in combination with other works on site which are the subject pl.22/ 1151 did not / or will not have significant effects on European site(s) in view of its conservation objectives.

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.	<input type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is <b>uncertain</b> 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) <b>Significant effects</b> are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	28 Feb 23	 <b>Name: Ellen Carey E.P.</b>
Signature and Date of the Decision Maker:	 02/03/23	





2edia. Sh23-7





12/21/21

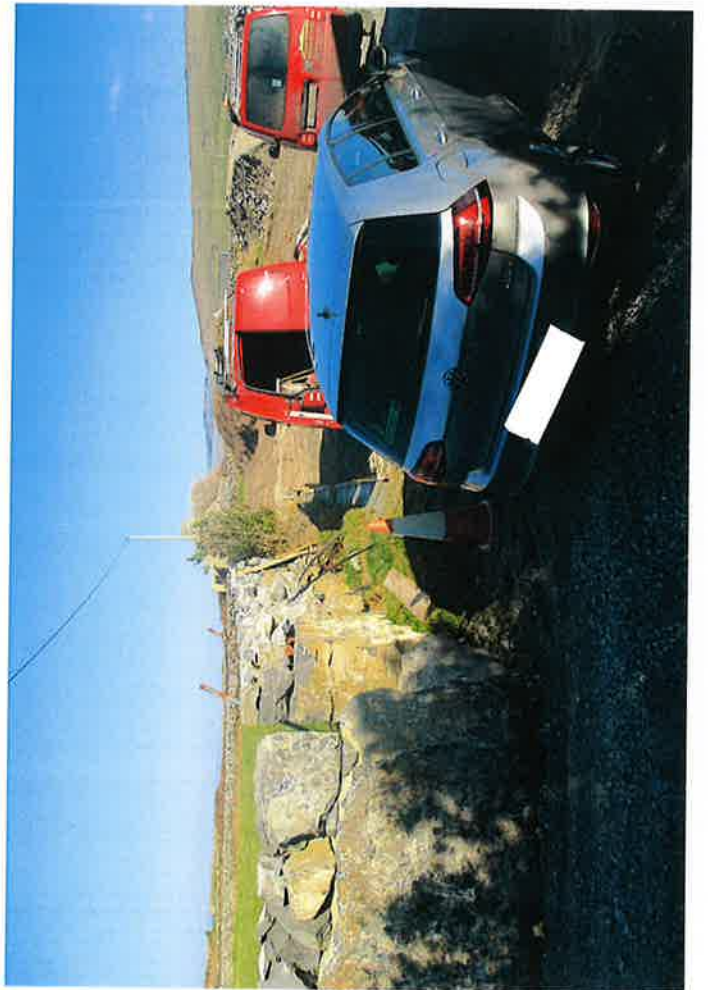




h-23-7



R23-7





COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Sean Connole & Amy McCormack**  
c/o Deirdre Foran  
Lisdoonvarna  
Co. Clare

**08/02/2023**

**Section 5 referral Reference R23-7 – Sean Connole & Amy McCormack**

Is the animal shed and concrete yard built in Derreen East, Fanore development and if so, is it exempted development?

A Chara,

I refer to your application received on 8th February 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 Stiúarthóireacht 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





R23-7

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)



Comhairle Contae an Chláir  
Clare County Council



**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	SEAN CONNOLE & AMY MC CORMACK FANORE   
(b) Telephone No.:	
(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 ANIMAL SHED AND CONCRETE YARD BUILT IN DERREEN EAST,  
 FANORE, 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 SMALL LEAN TO SHED FOR HOUSING ANIMALS WITH A CONCRETE YARD

OUTSIDE IT WHICH WILL BE RAILED AROUND.

SEAN CONNOLE -FLOCK NUMBER: Q105- 32

- (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; SITE LAYOUT PLAN  
 LETTERS FROM HOMEOWNERS WITHIN 100M OF SHED



3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	DEREEN EAST FANORE BALLYVAUGHAN
(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):	__ SEAN AND HIS WIFE AMY OWN 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>	LETTER RECEIVED RE NEW ENTRANCE FROM PUBLIC ROAD
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	22/1151; APPLICATION TO RETAIN NEW, SAFER ENTRANCE; NOT YET DECIDED
(h) Date on which 'works' in question were completed/are likely to take place:	SHED COMPLETED SUMMER 2022, YARD TO BE COMPLETED YET

SIGNED:



AGENT

DATE: 02-02-2023

### **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: .....	

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



08/02/2023 11:38:54

Receipt No : L1CASH/0/344778

\*\*\*\*\* REPRINT \*\*\*\*\*

SEÁN CONNOLLE & AMY MCCORMACK  
C/O DEIRDRE FORAN  
LISDOONVARNA  
CO. CLARE  
R23/7

COMHAIRLE

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

AN CHLÁIR

Total : 80.00 EUR

Tendered :  
CHEQUES

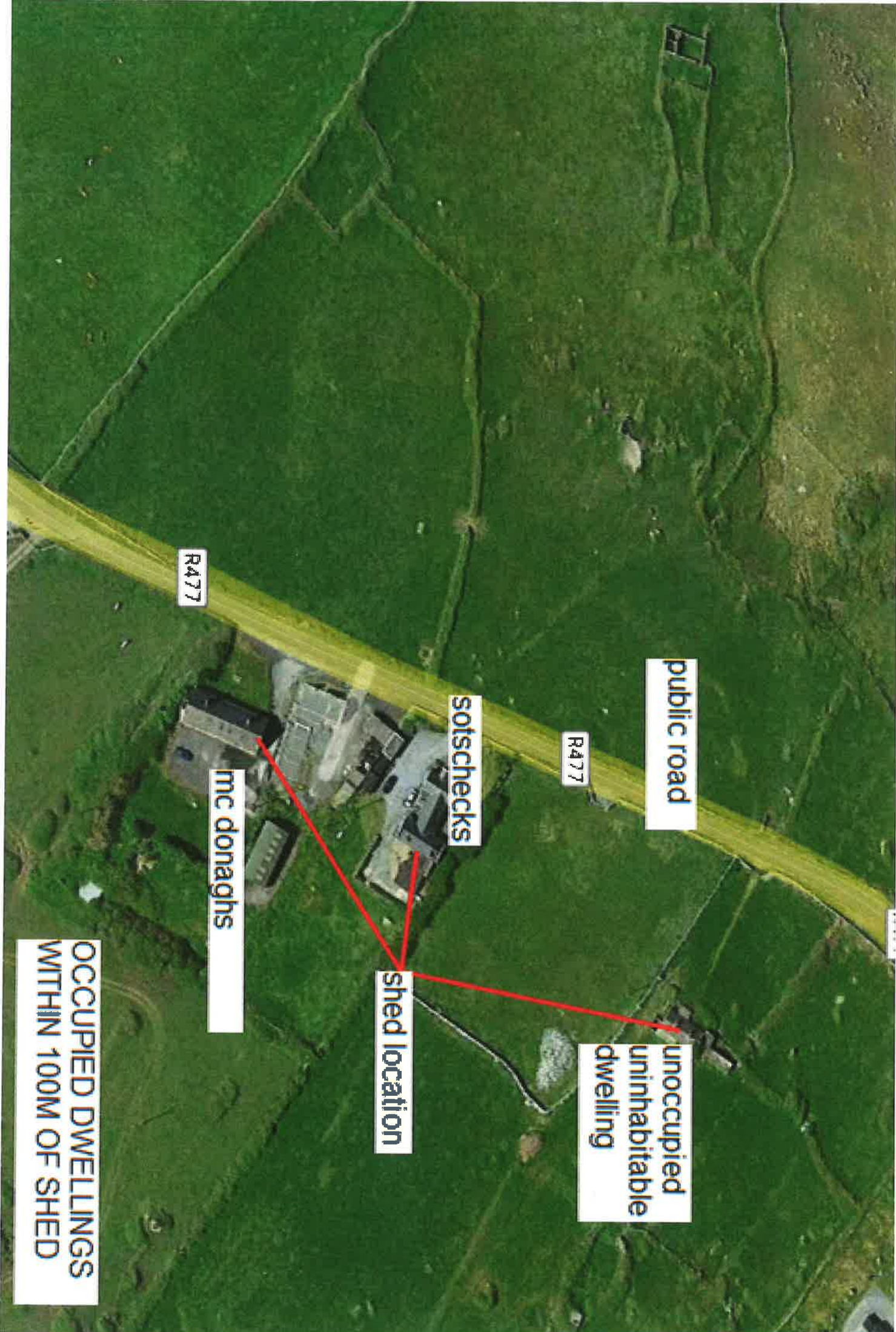


80.00

Change :

0.00





public road

R477

sotschecks

mc donaghs

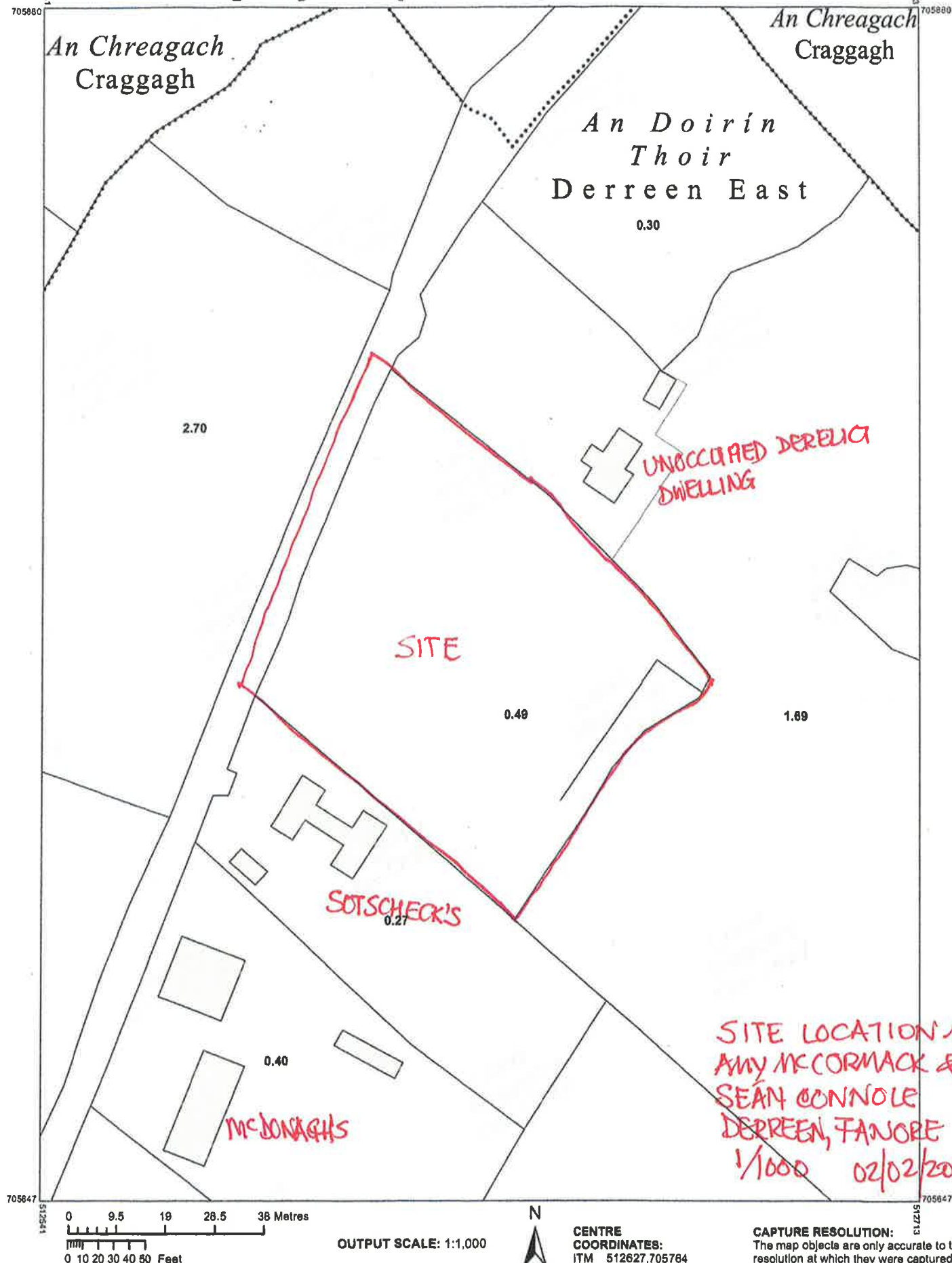
shed location

unoccupied  
uninhabitable  
dwelling

R477

OCCUPIED DWELLINGS  
WITHIN 100M OF SHED

# Land Registry Compliant Map



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Dublin 8,  
Ireland.

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[www.osi.ie](http://www.osi.ie)



Derreen,

Fanore,  
Co Clare.

December 20th 2022

Planning Secretary,

Clare Co Co .,

New Road,

Ennis.

Reference:

Exemption of Agricultural Shed on Neighbours Lands

Dear Secretary,

We live within 100m of the agricultural shed referred to above and have no objection to it. It is a dry shed for housing animals with a concrete yard outside it.

Thank you.

Yours, *Carmel Mc Donagh.*

Derreen,  
Fanore,  
Co Clare.

December 20th 2022

Planning Secretary,  
Clare Co Co.,  
New Road,  
Ennis.

Reference:

Exemption of Agricultural Shed on Neighbours Lands

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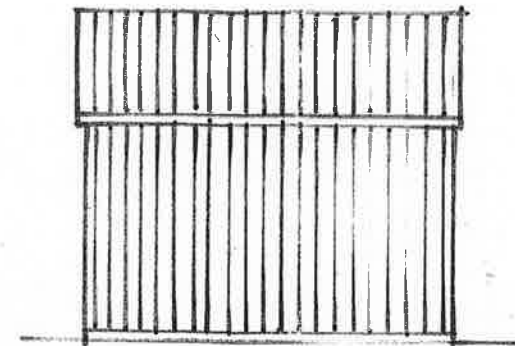
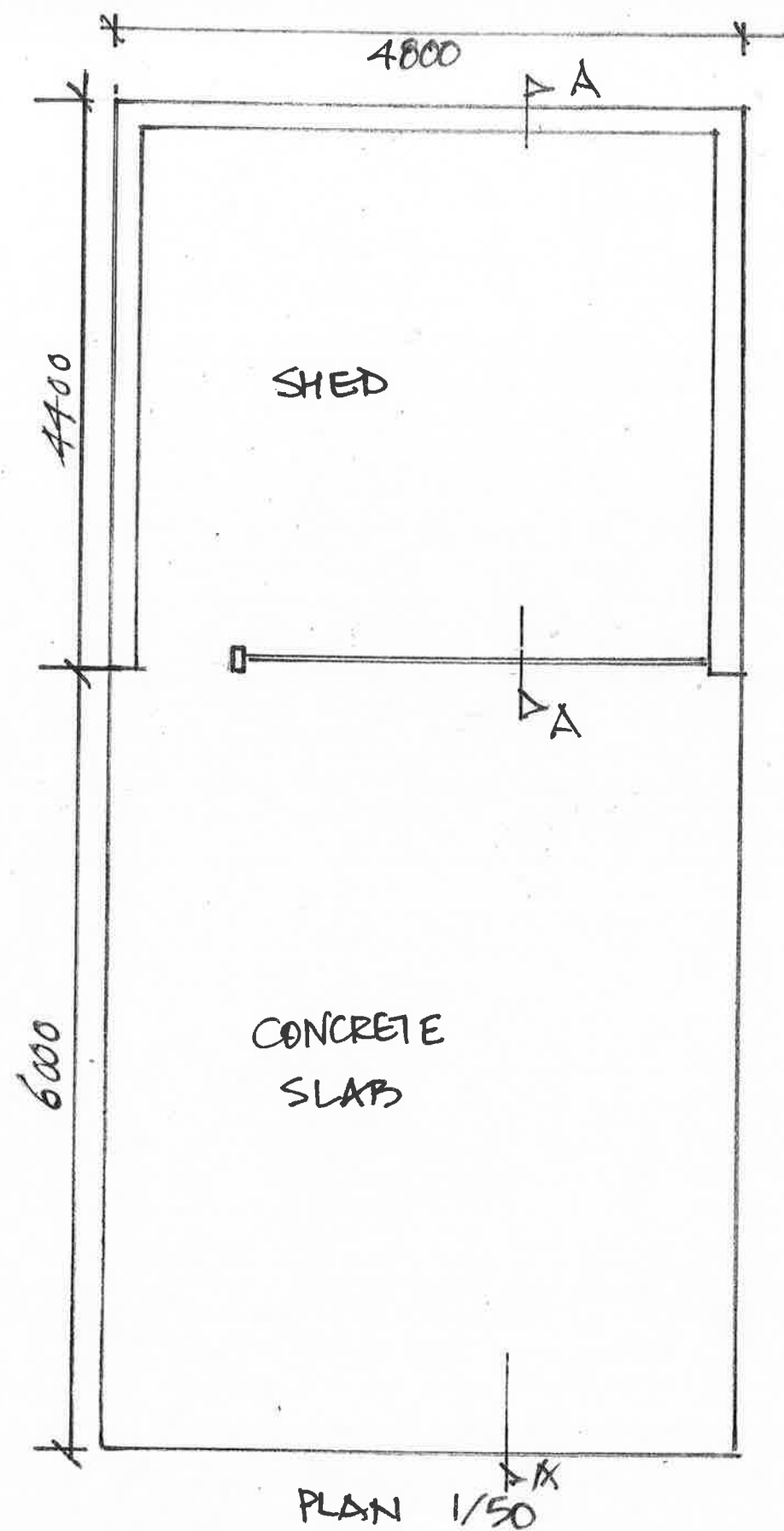
Yours,

Ralf Sotscheck

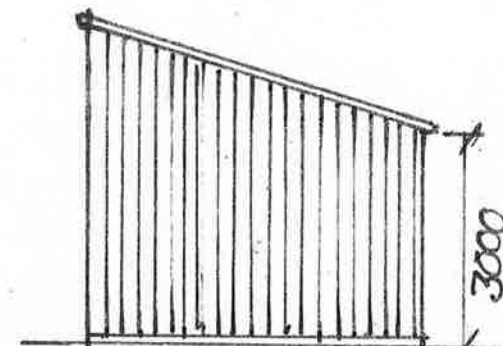
Aine Sotscheck

17.1.2023

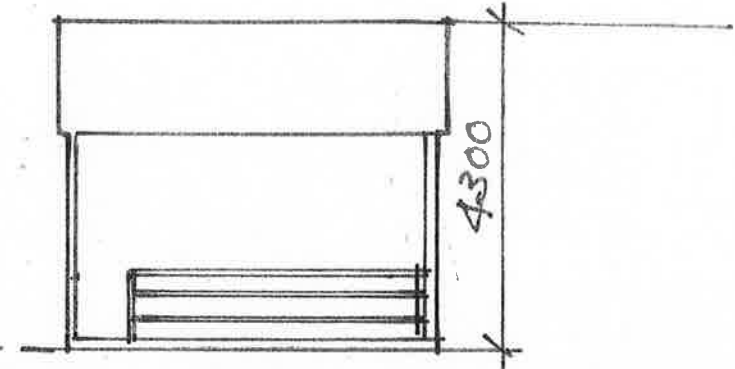
AINE + RALF SOTSCHECK  
FANORE H91 KFIC



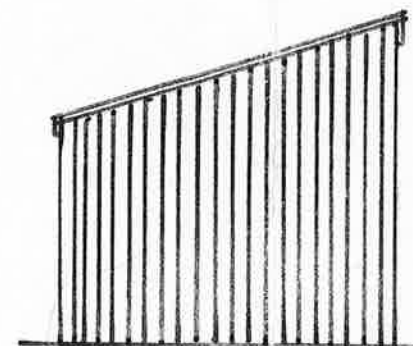
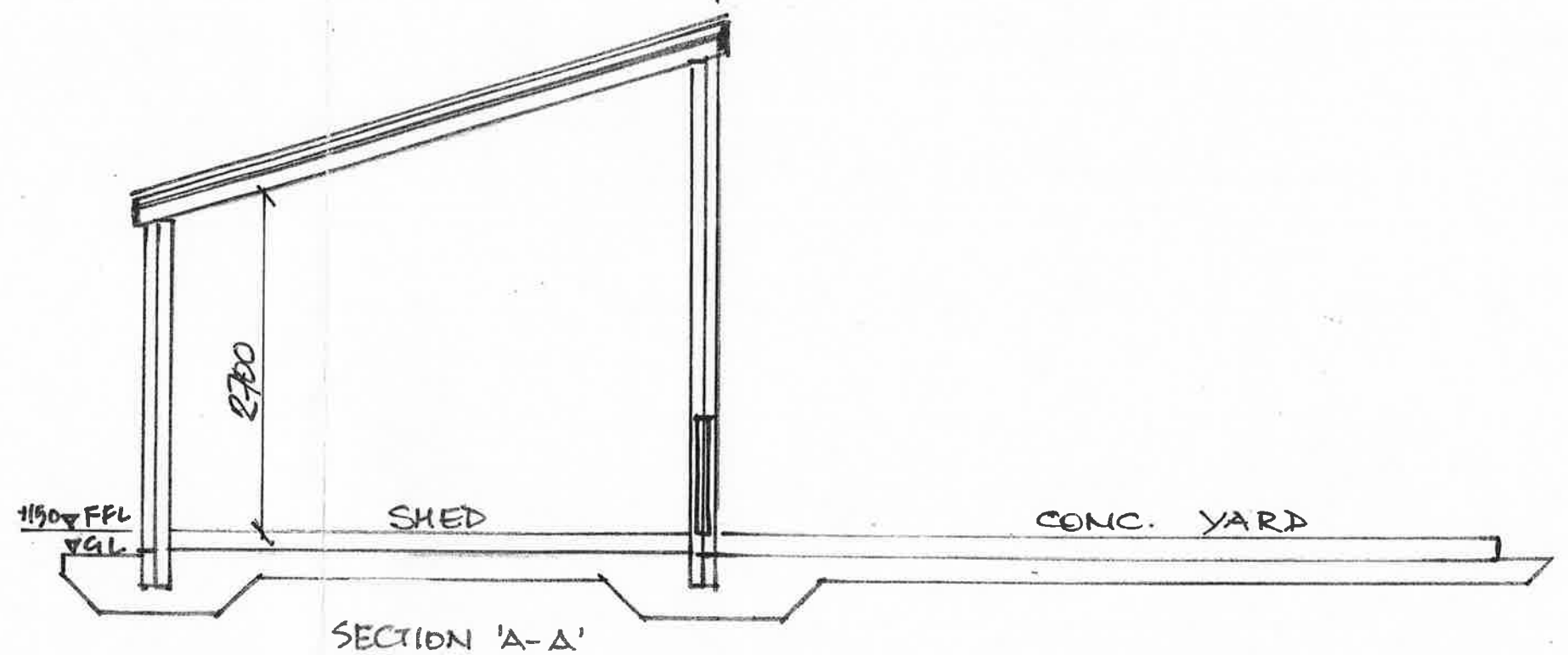
FRONT



LEFT SIDE



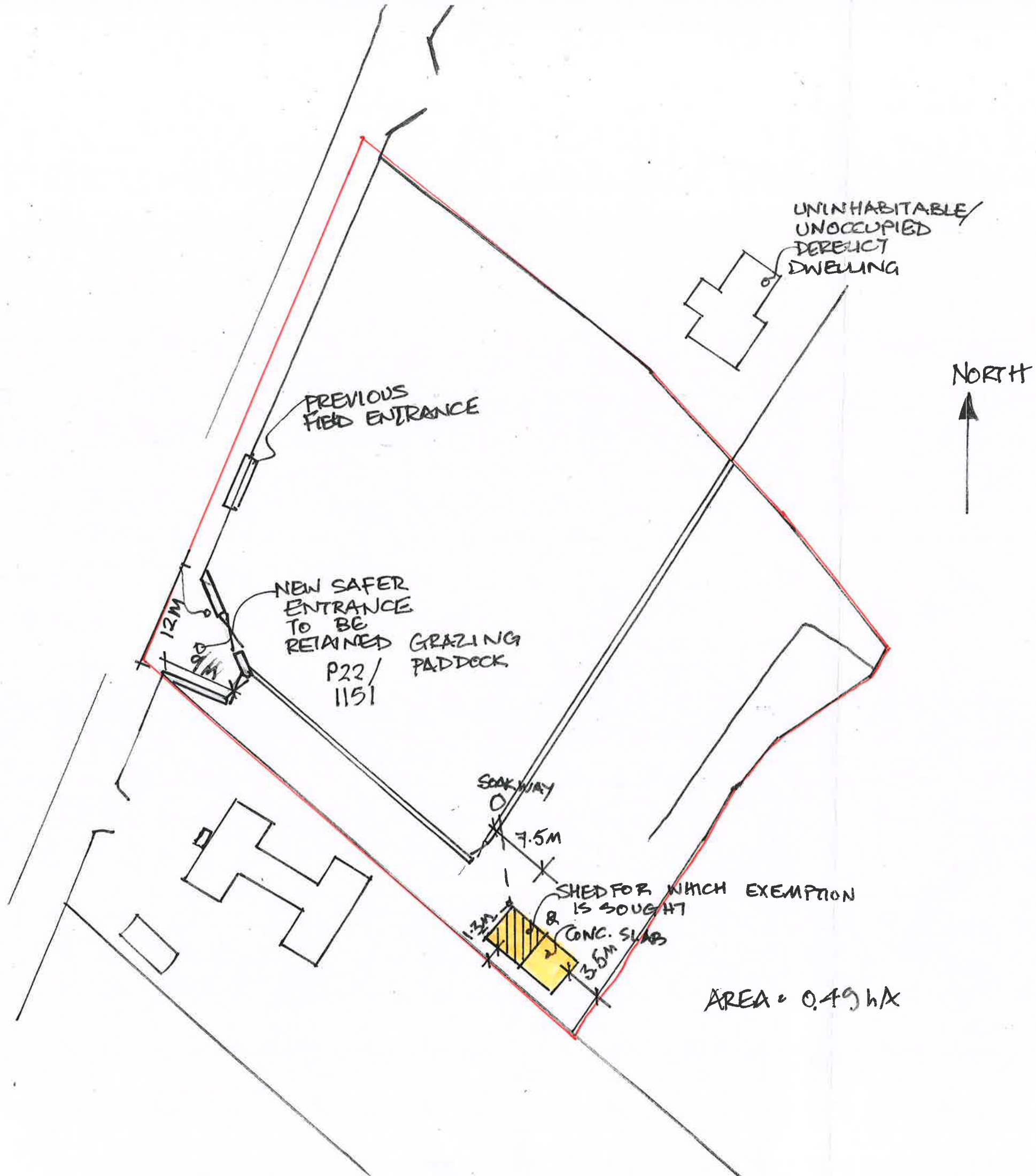
REAR



RIGHT SIDE

RETENTION OF SHED  
 AMY MCCORMACK &  
 SEAN CONNOLLY  
 DERREEN EAST  
 FANORE  
 SCALES: 1/50; 1/100  
 D FORAN B. ENG  
 087 6750327  
 00 00 0007





SITE LAYOUT PLAN  
 AMY MCCORMACK &  
 SEÁN CONNOLLY  
 DERREEN EAST  
 FANORE  
 1/500 DEC 16TH 2022  
 D. FORAN B.ENG  
 087 6750327