

COMHAIRLE CHONTAE CEATHARLOCHA
CARLOW COUNTY COUNCIL

C A R L O W
COUNTY COUNCIL
COMHAIRLE CHONTAE CEATHARLOCHA



COUNTY BUILDINGS, ATHY ROAD, CARLOW.

Tel: Phone: 059-9170300/ Fax: 059-9170836
Website: www.carlow.ie

Application Form for Section 5 Declaration on Development & Exempted Development

1. Name of applicant: Ger O' Riordan
2. Address of applicant: [REDACTED ADDRESS]
3. Name and address for correspondence: James Kealy, Planning & Design Services,
Carlow Gateway Business Centre, Athy Rd., Carlow
Tel. No: 085/1002200 + 087/6213686 Fax No: N/A E-mail: jkplanning@outlook.com
4. Location of Development: Townland : Donore, Bagenalstown Co. Carlow

Postal Address: (if different from Townland): N/A
5. Name and Address of Agent: James Kealy
Planning & Design Services, Carlow Gateway Business Centre,
Athy Rd., Carlow
6. Outline clearly the description of the development / proposal: Applicant wishes to apply
for the construction of an agricultural shed to be used to store hay and farm machinery see
detailed drawings attached

7. Is this a Protected Structure or within the curtilage of a Protected Structure:

N/A

8. List any previous applications relating to the site: Applicant for a dwelling was made and granted under planning application 19/349 and is in the process of being constructed

9. Are you aware of any enforcement proceedings relating to this site :

N/A

10. Please state applicant's interest in this site: Owner

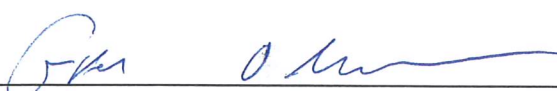
11. List of plans, drawings etc. submitted with this application:

* Site location maps 1:2500 / 1:10560

* Plans elevation section 1:100

* Site layout 1:500

Signed:


(Signature of Applicant)

Date: 02/02/2023

Note: This application must be accompanied by:

Payment of Fee: This application must be accompanied by the statutory fee of €80

Lodgement: The application should be forwarded to:
Planning Department
Carlow County Council
Athy Road
Carlow

OFFICE USE ONLY

Date Received: _____

Date Decision Due: _____

Date of Decision: _____

Recommendation: _____

Advice Note:

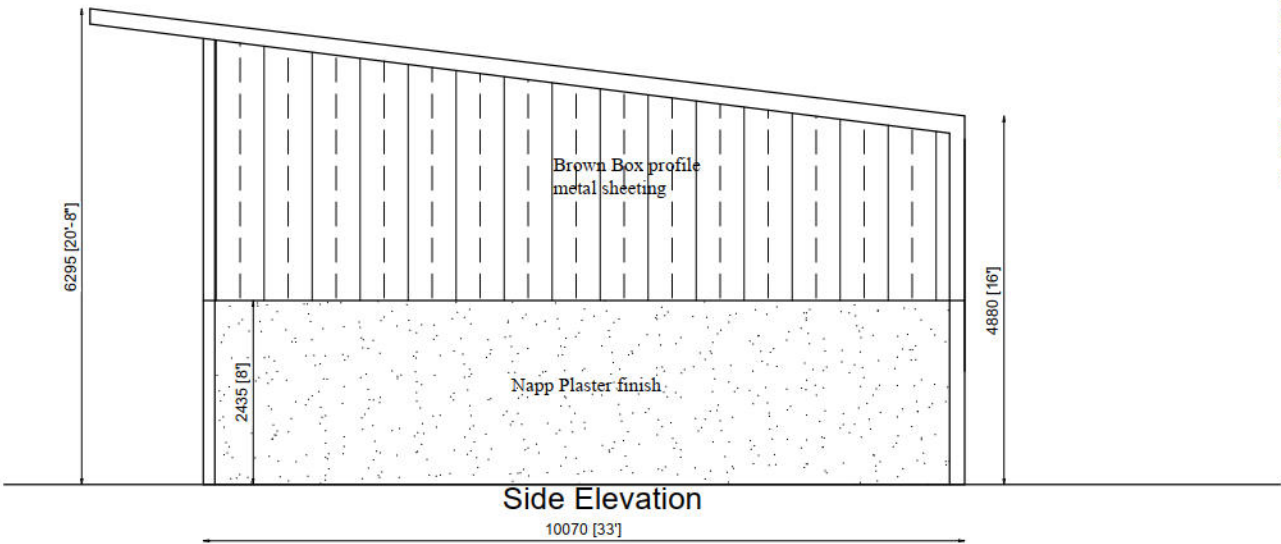
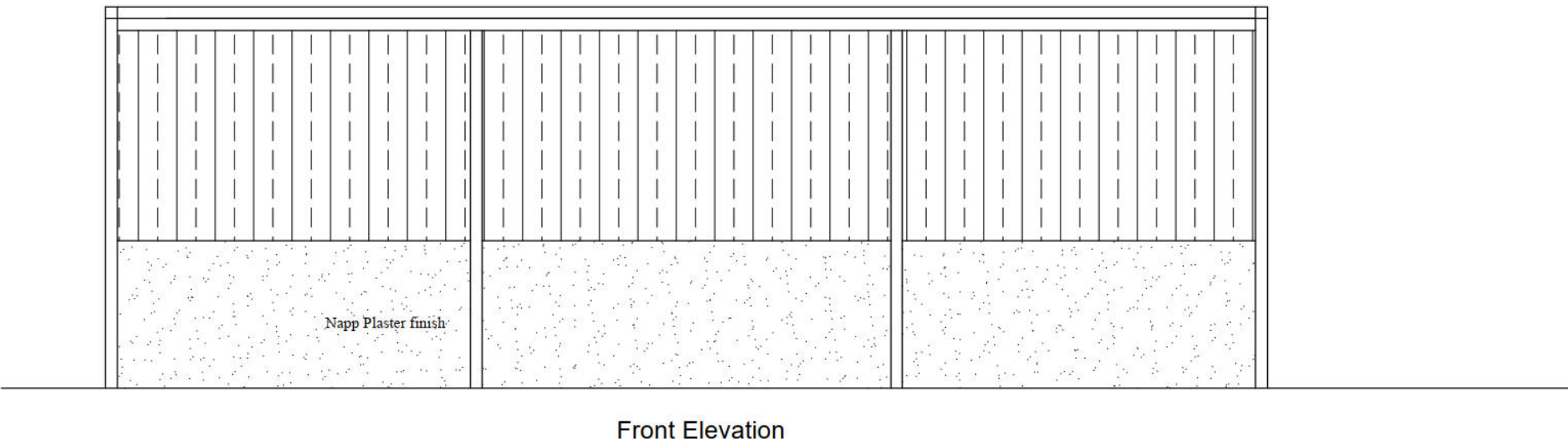
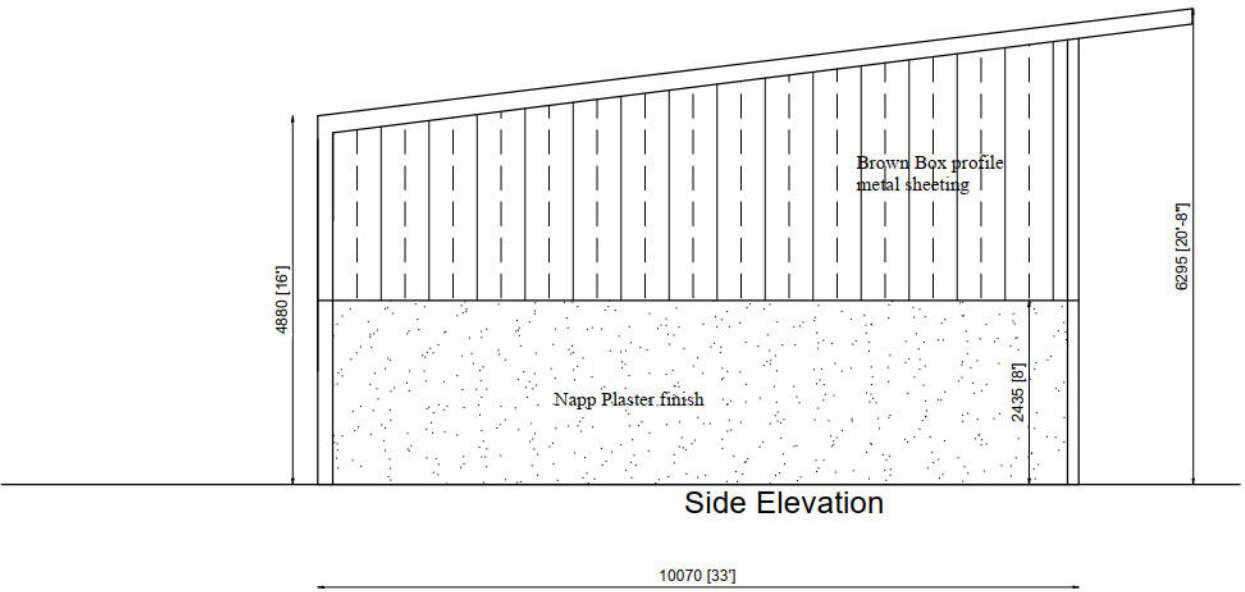
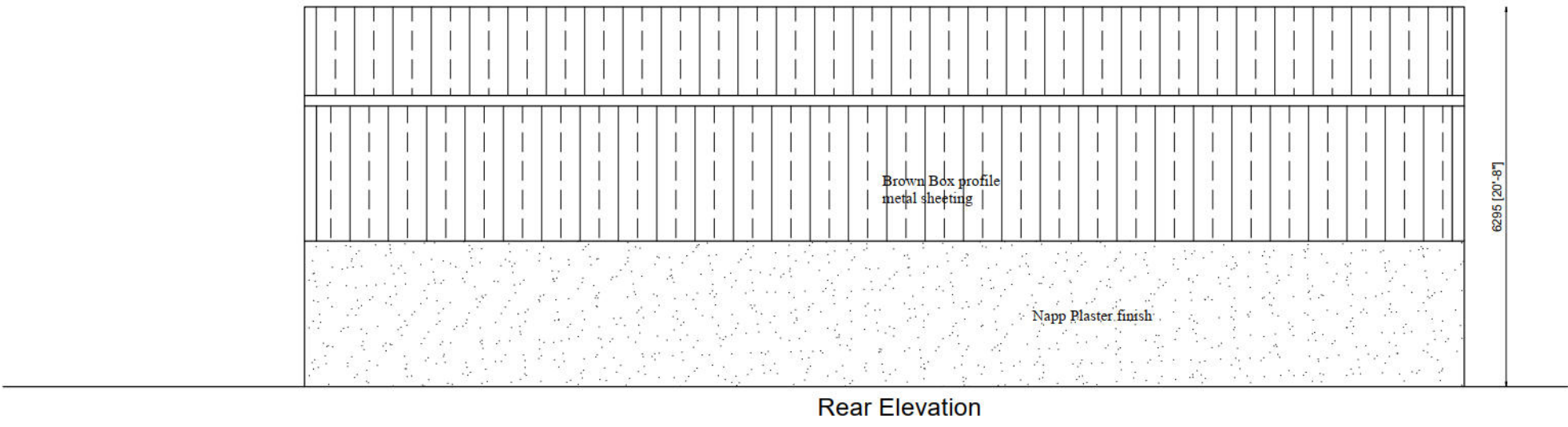
This is a non-statutory advice note prepared by Carlow County Council for the purposes of advising applicants what information is required for a decision to be made under Section 5 by the Planning Authority.

Under Section 5 of the Planning and Development Act 2000 as amended any person may request in writing from the Planning Authority as declaration as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of the Planning and Development Act 2000 as amended.

The Planning Authority is required to make a decision within 4 weeks of receipt of a Declaration Request under Section 5, along with the prescribed fee, however the Planning Authority can also request Additional Information if it is considered that insufficient information has been submitted.

Therefore, it is advised that the following information should be submitted to enable the Planning Authority to make a qualified decision within the prescribed period:

- A site location map (Scale 1:2500 in rural area and 1:1000 in an urban area), with the site clearly outlined in red.
- Site Layout Map (Scale 1:500) in compliance with Article 23 of the Planning and Development Regs 2001 as amended.
- Drawings (Scale 1:50) Where development involves any construction of a new structure, increase in size of existing structure or alterations to an existing structure, scaled floor plans and elevations. Drawings should differentiate between the original building, all extension and proposed development.



CLASS 9
Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

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

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2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.

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

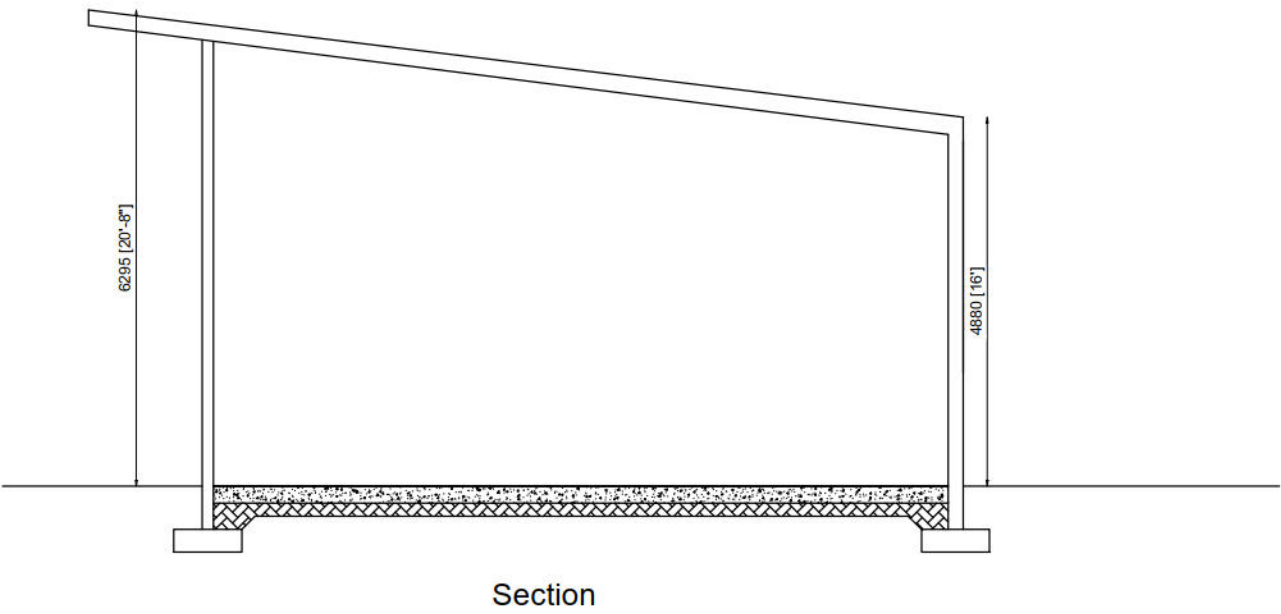
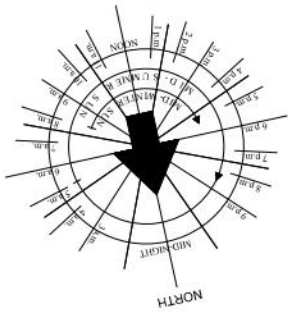
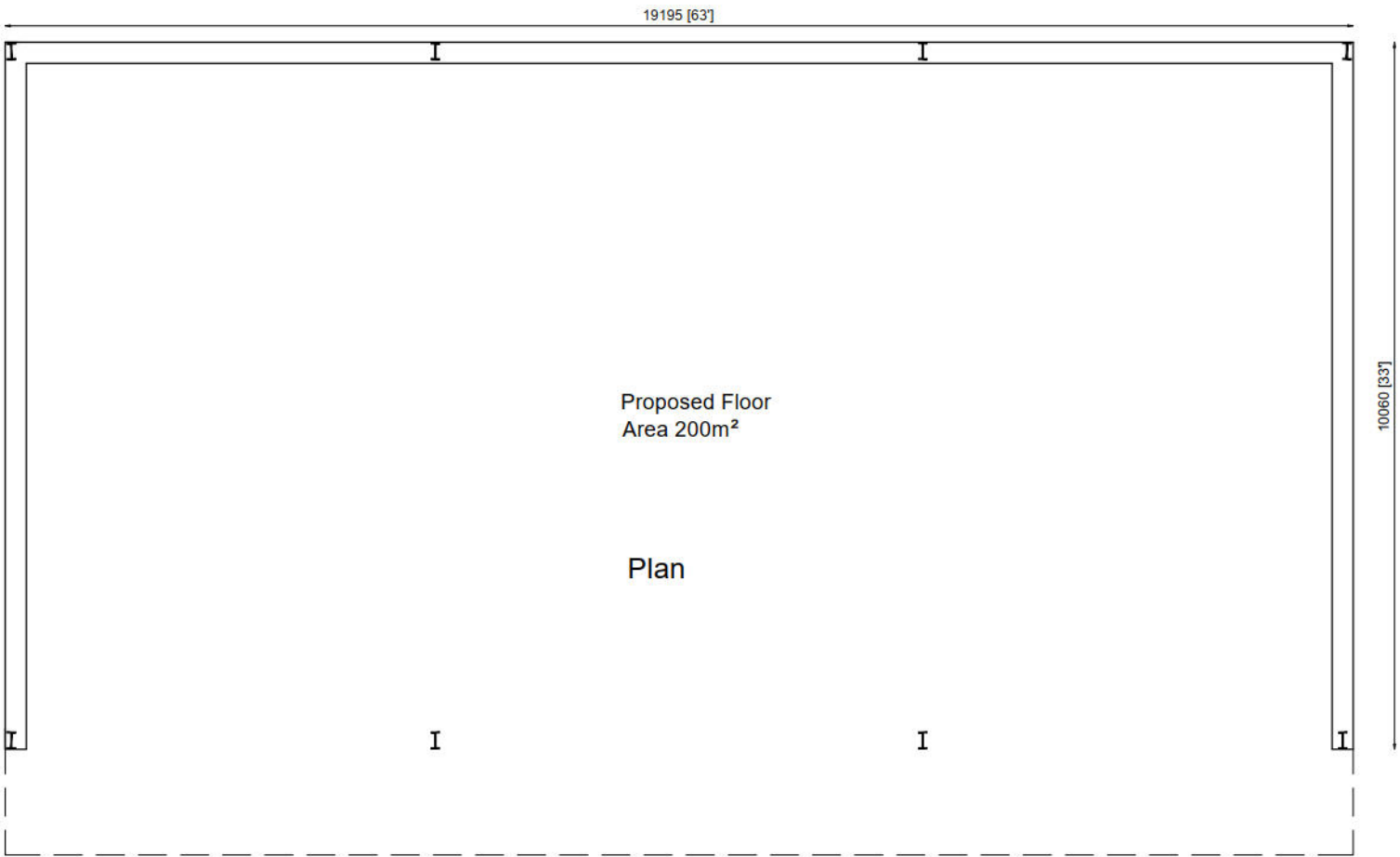
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.

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

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

Plans Elevations & Section

Scale 1: 100



Client: Ger O'Riordan	Address: Donore Bagenalstown Co. Carlow.
Job: Agricultural Shed	
Drawn By: James Kealy.	Date: January 2023
Purpose: Exempt Development	
Local Authority: Carlow County Council	Revisions:

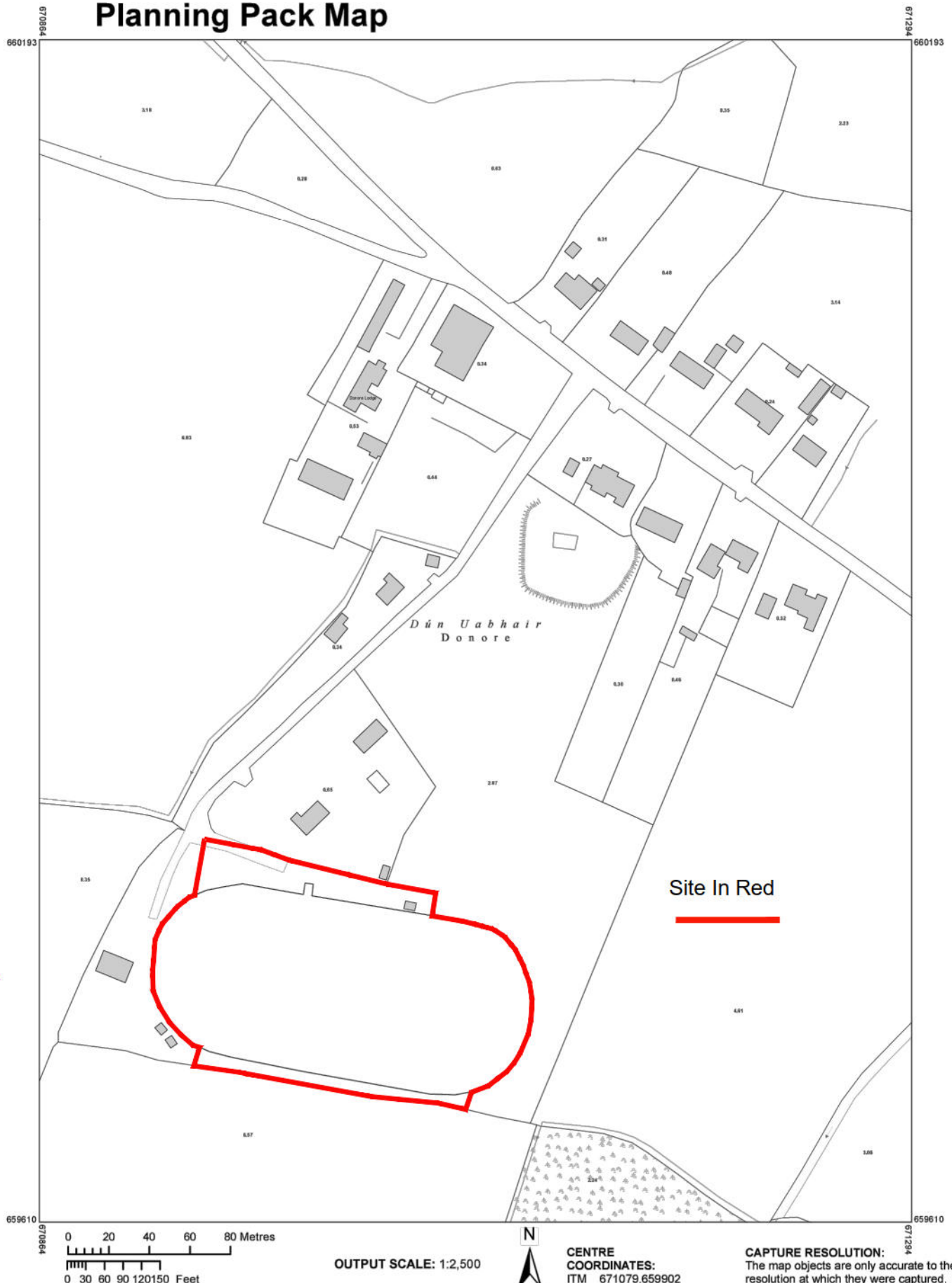
Planning & Design Services

Gateway Business Centre Athy Road Carlow
Ph: (059) 91 39484 mob: 085 100 2 200

All Drawings Are Solely For Purposes Of Seeking Planning Permission & are NOT yet Finalised all measurements are approximate & have yet to be validated, and while every effort has been made to produce drawings as accurate as possible the Architect does NOT accept any responsibility for any inaccuracy that may be found therein.

DRAWING NO.
01-23-EX-02

Planning Pack Map



Site In Red

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**CENTRE
COORDINATES:**
ITM 671079,659902

PUBLISHED:
29/06/2018

MAP SERIES:
1:2,500
1:5,000

ORDER NO.:
50013867_1

MAP SHEETS:
4650-D
4710

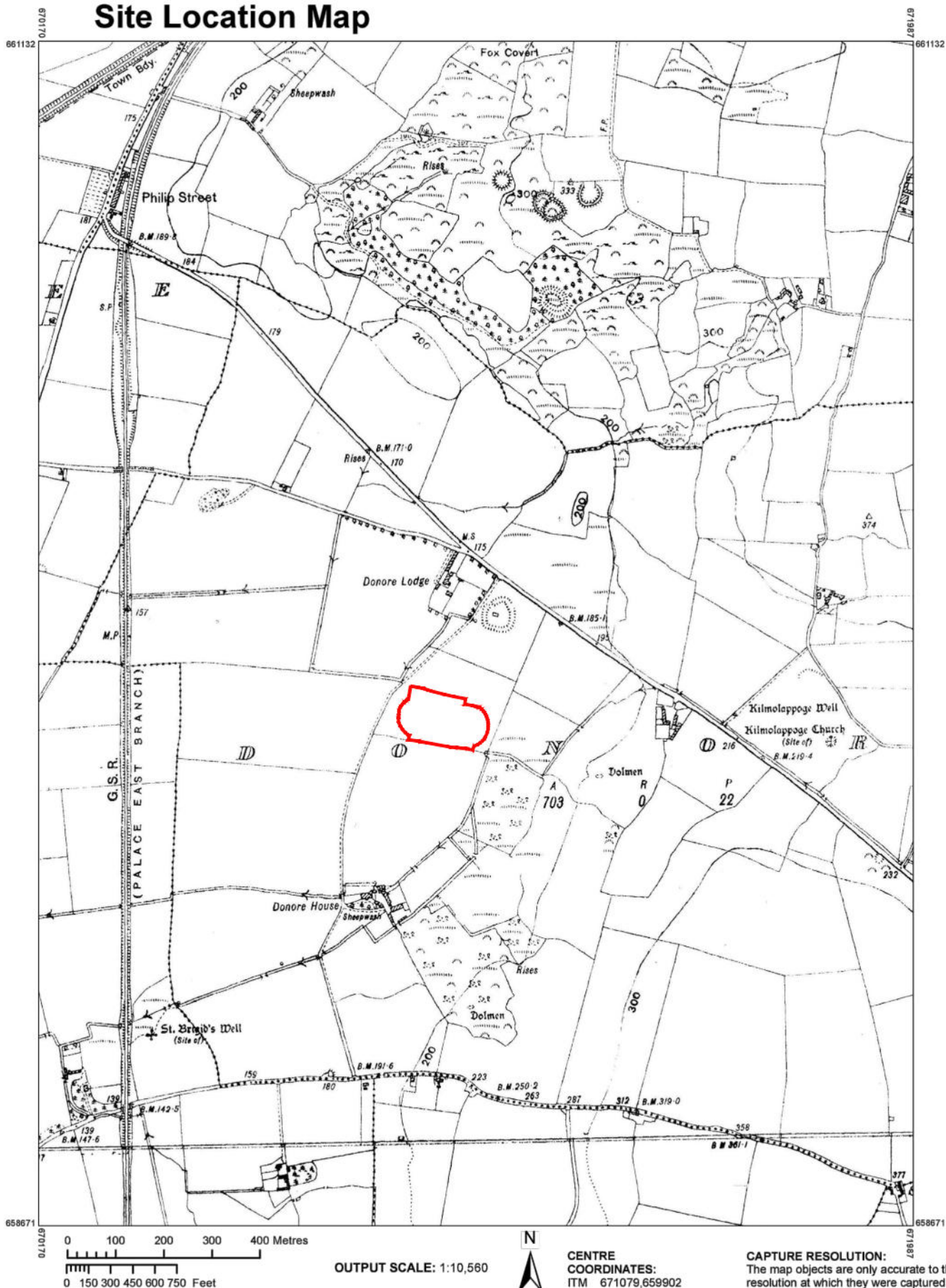
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Site Location Map



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**CENTRE
COORDINATES:**
ITM 671079,659902

PUBLISHED:
29/06/2018
MAP SERIES:
6 Inch Raster
6 Inch Raster
6 Inch Raster
6 Inch Raster

ORDER NO.:
50013867_1
MAP SHEETS:
9900-23
CW016
CW019
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KK021

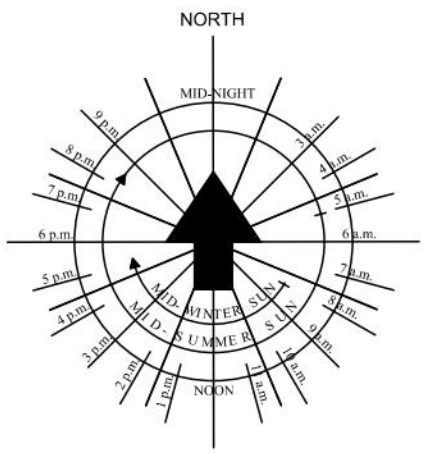
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LEGEND:
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Site In Red



Site Area
1.74 ha.

Site Red Bounded

Proposed
Site Layout
Scale 1/500

CLASS 9
Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

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

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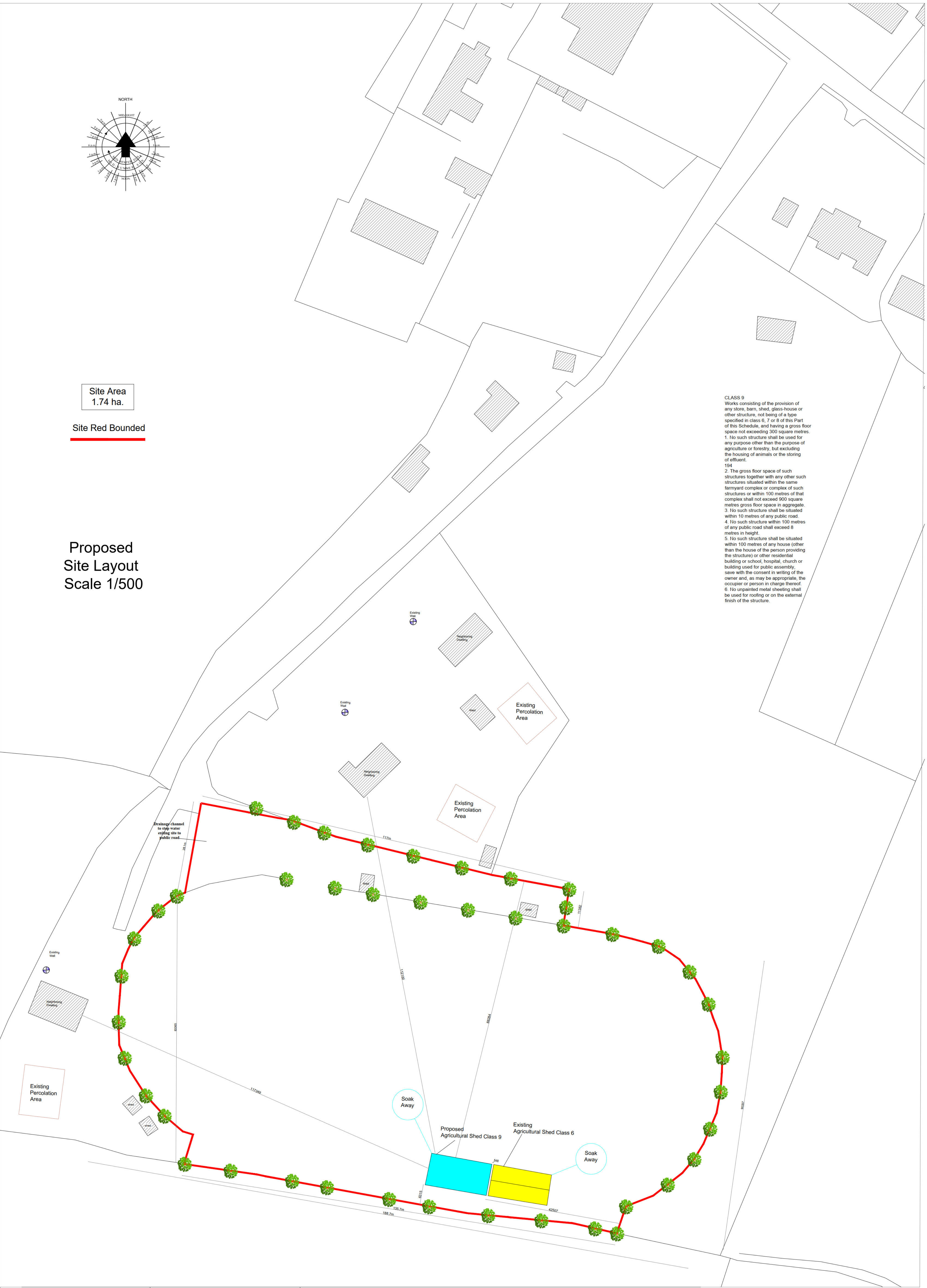
2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.

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

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

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

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



Client: Ger O'Riordan	Address: Donore Bagenalstown Co. Carlow.
Job: Agricultural Shed	
Drawn By: James Kealy.	Date: January 2023
Purpose: Exempt Development	
Local Authority: Carlow County Council	Revisions:

Planning & Design Services

Gateway Business Centre Athy Road Carlow
Ph: (059) 91 39484 mob: 085 100 2 200

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02-23-EX-02

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CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT
SECTION 5 DECLARATION

C A R L O W
C O U N T Y C O U N C I L
COMHARLU CHONTAE CHEATHARLOCHA



Reg. Ref.	SEC5/23/07
Name of Applicant	Ger O’Riordan
Address of Development	Donroe, Bagenalstown, Co. Carlow
Site Visit	09/02/2023
Proposed Works	Proposed agricultural storage shed (200m. sq) to be used to store hay and farm machinery.

Site Location

The site is accessed via a private laneway from the local road (L-3001) which also serves neighbouring dwellings. The site consists of an existing agricultural shed and dwelling house.

SITE LOCATION



3. No such structure shall be situated within 10 metres of any public road.
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

Section 4(2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

Planning and Development Regulations 2001 (as amended) - the Regulations

- Article 6

(1) Subject to article 9, development of a class specified in column 1 of Part 1 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 1 opposite the mention of that class in the said column 1.

- Article 9 as referred to in Article 6(1) of the Regulations sets out a list of restrictions on exempt development.

5) Assessment

In response to Further Information requested on 17th February 2023, the applicant has submitted a revised site layout map, site location map, and drawings of elevations, plans & sections detailing proposed works.

1. a) The agent has confirmed there is an existing building which is exempt under Article 6, Class 6 onsite.
- b) The applicant has submitted revised drawings of the proposed and existing agricultural sheds confirming the cumulative floor area.
- c) The applicant has submitted revised drawings of the structure elevations of the proposed agricultural shed with details of the proposed finish in order to clarify if the proposed metal sheeting shall be painted or 'unpainted'.

Class 9, in Part 3, of Schedule 2 of the Planning and Development Regulations 2001 (as amended) applies to the proposal. Obtaining an exempted development status under Class 9 requires compliance with the 6 No. conditions/limitations outlined below.

Conclusion

Based on the information submitted to the Planning Authority on 02/02/2023 and 02/03/2023, the proposed structure satisfactorily falls under Class 9 exempted rural development as it is a shed under 300 m. sq (total area of 200m. sq) and is to be used for storing hay and agricultural machinery only. The floor area of the proposed agricultural storage shed will not exceed the 900m. sq gross floor space. From the particulars submitted in the referral the proposed shed will be located over 10m from the public road, and will not be over 8m in height. With regard to condition and limitation 5, it is noted that the nearest dwelling is to the west of the site and is within 117 metres from the proposed structure. The proposed shed will have a painted box profile metal sheeting and napp plaster finish. It is not considered that the proposed development would be restricted by virtue of the requirements of Article 9.

Recommendation

Overall having regard to the details and drawings submitted with the referral it is considered that the development as declared meets the conditions and limitations set out in column 2 of Schedule 2, Part 3, Class 9 of the Planning and Development Regulations 2001.

It is therefore considered that the proposed erection of a 200m² single storey agricultural storage shed to the immediate east of the existing agricultural shed constitutes development and is exempted development.

Having regard to the foregoing, it is decided that the proposed erection of a 200m² single storey agricultural storage shed **is development and is exempted development.**

A draft order is set out below.

CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT
SECTION 5 DECLARATION



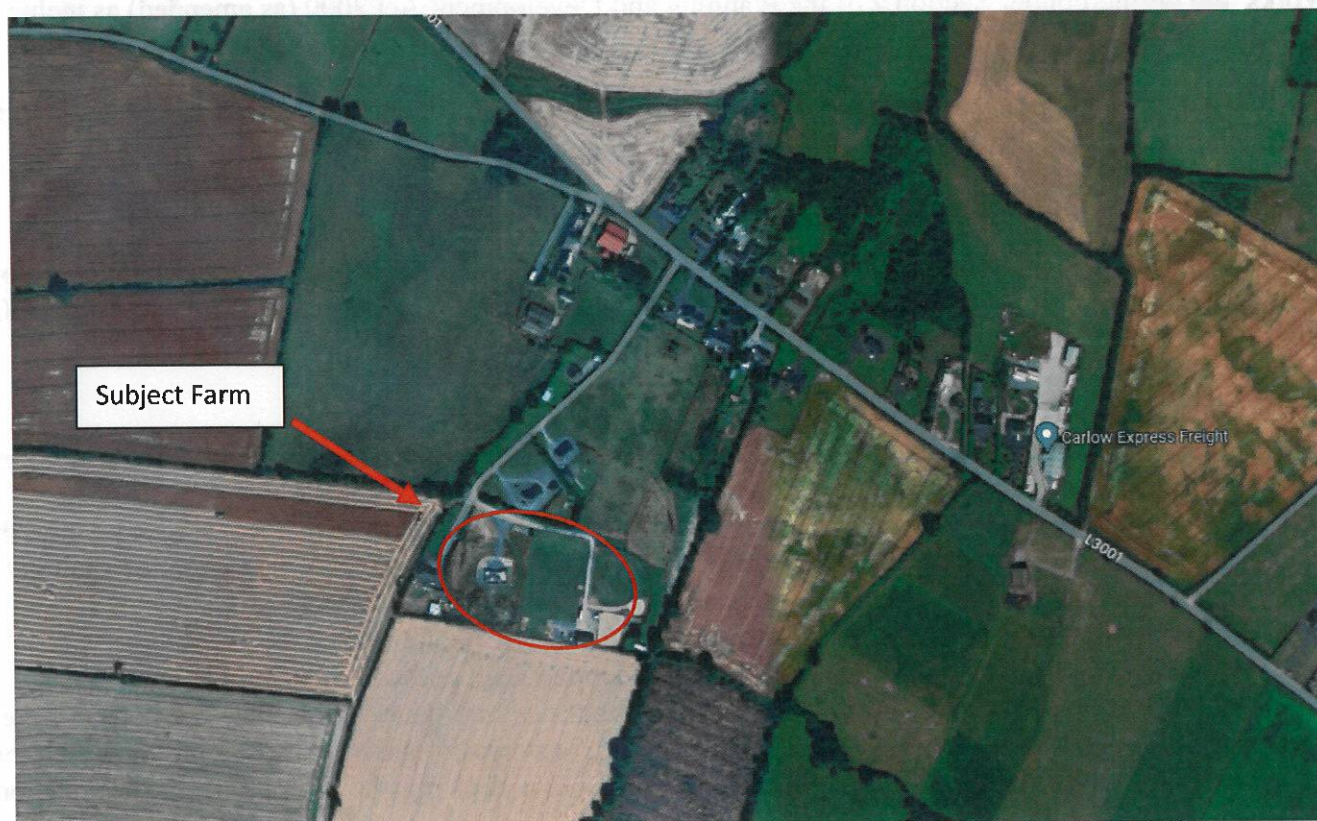
**COMHAIRLE CONTAE
CHEATHARLACH**
CARLOW COUNTY COUNCIL

Reg. Ref.	SEC5/23/07
Name of Applicant	Ger O’Riordan
Address of Development	Donroe, Bagenalstown, Carlow
Site Visit	09/02/2023
Development Description	Proposed agricultural storage shed (200m. sq) to be used to store hay and farm machinery

1) Site Location/Context

The Section 5 declaration relates to the construction of an agricultural shed to be used for hay storage and farm machinery storage. The site is accessed via a private laneway from the local road (L-3001) which also serves neighbouring dwellings. The site consists of an existing agricultural shed and dwelling house.

Aerial View of Site Location



2) Relevant Planning History

18/289-Incomplete Application for the construction of a dormer type dwelling, domestic garage, septic tank & percolation area, new entrance, bored well and all associated site works (Applicant: Tracy & Ger O’Riordan).

18/333- Permission refused for the construction of a dormer type dwelling, domestic garage, septic tank & percolation area, new entrance, bored well and all associated site works (Applicant: Tracy & Ger O’Riordan).

19/349- Permission granted for the construction of a single storey dwelling, domestic garage, septic tank & percolation area, new entrance, bored well and all associated site works (Applicant: Tracy & Ger O’Riordan).

3) Description of the Referral/Proposal

This proposal is a request for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) to determine whether or not the erection of a 200m² agricultural storage shed to store hay and farm machinery constitutes exempted development.

4) Relevant Legislative/Regulatory Provisions

Legislative Context

The proposal will be assessed within the provisions of:

- a) Sections 3 and 4 of the Planning and Development Act 2000 (as amended);
- b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended) and
- c) Schedule 2, Part 3 Class 9 of the Planning and Development Regulations 2001 (as amended).

‘Section 3(1) of the Planning and Development Act, 2000 (as amended) defines ‘development’ as meaning, 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 structure or other land’*.

‘Works’ are defined under Section 2 of the Planning and Development Act 2000 (as amended) as including *‘any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...’*.

It is considered having regard to the above definitions that the proposal to construct a new agricultural shed constitutes ‘works’ and ‘development’ within the meaning of the Act.

Class 9 of Part 3 of Schedule 2 relates to the following development:

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

There are a number of conditions and limitations attached to this exemption;

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

Section 4(2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

Planning and Development Regulations 2001 (as amended) - the Regulations

- Article 6

(1) Subject to article 9, development of a class specified in column 1 of Part 1 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 1 opposite the mention of that class in the said column 1.

- Article 9 as referred to in Article 6(1) of the Regulations sets out a list of restrictions on exempt development.

5) Assessment

Based on the information submitted, it is possible that the proposed structure falls under Class 9 exempted rural development as it is a shed under 300 m. sq (total area of 200m. sq) and is to be used for storing hay and agricultural machinery only.

From the particulars submitted in the referral the proposed shed will be located over 10m from the public road, and will not be over 8m in height.

With regard to condition and limitation 5, it is noted that the nearest dwelling is to the west of the site and is within 117 metres from the proposed structure.

However, further information would be required to enable the Planning Authority to assess whether the proposed development falls within the scope of exempted development for Class 9 of the Planning and Development Regulations 2001 (as amended).

The existing agricultural shed is stated to be exempted under 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*) on the Proposed Site Layout (dated January 2023) submitted to the Planning Authority on 02/02/2023.

However, the approved agricultural shed granted under planning ref. S5.19.10 relates to an agricultural shed exempted under Class 9 (*Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres*).

From the site inspection carried out on 09/02/2023, it was observed that three horses were located in the adjoining field. It is unclear if the existing agricultural shed is being used for the housing of the horses as set out under class 6 and stated on the submitted Proposed Site Layout map or if the existing agricultural shed is used as a hay/straw store as set out under class 9 and approved under S5.19.10 by the Planning Authority on 21 June 2019.

It is also noted that the detail of the proposed metal sheeting has not been specified as required by condition 6 "*No unpainted metal sheeting shall be used for roofing or on the external finish of the structure*".

6) Recommendation

1. In order to enable the Planning Authority to assess whether the proposed development falls within the scope of exempted development for Class 9 of the Planning and Development Regulations 2001 (as amended), you are requested to submit the following further information.

- a) Previous referral 19/10 was confirmed as exempt pursuant to Class 9 and not Class 6 as stated in this application. In the event that the existing agricultural shed is not in use as indicated under 19/10 (Class 9), you are required to address in full conditions & limitations pertaining to Class 6 as appropriate to the existing agricultural shed and submit an amended description/ Section 5 Declaration as appropriate.
- b) Submit drawings- at a scale of not less than 1:200- of the proposed and existing agricultural sheds confirming the cumulative floor area.
- c) Submit drawings- at a scale of not less than 1:200- of the structure elevations of the proposed agricultural shed with details of the proposed finish in order to clarify if the proposed metal sheeting shall be painted or 'unpainted'.

Sobhan Power
Graduate Planner

Date: 14/02/2023

SP
Senior Planner

Date: 14/2/23.

Appendix 1

APPROPRIATE ASSESSMENT SCREENING REPORT

Planning Application Reg. Ref: SEC5/23/07

A. DESCRIPTION OF PROJECT AND LOCAL SITE

Site Location:	Donroe, Bagenalstown. Carlow
Total Site Area:	1.74 ha
Floor Area of Proposed Development:	200sq.m
Identification of Natura 2000 site(s):	River Barrow and River Nore cSAC Blackstairs Mountains SAC
Is the application accompanied by an EIS?	No.

B. IDENTIFICATION OF RELVANT NATURA 2000 SITE(S):

The reasons for the designation of the Natura 2000 site:(A site synopsis can be obtained from www.npws.ie)The conservation objectives/qualifying interests of the site and the factors that contributes to the conservation value of the site:

C. NPWS ADVICE:

Summary of advice received in written form:	None Received.
Advice received over the over phone:	None Received.

D. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

(Purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).If answer yes to any of the questions, below then the effect is significant.

1.1	Would there be any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance)	No.
1.2	Would there be a reduction in habitat area on a Natura 2000 site?	No.
1.3	Would there be direct/indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site?	No.
1.4	Would there be serious/ongoing disturbance to species/habitats for which the Natura 2000 site is selected (e.g. because of increased noise, illumination and human activity)?	No.
1.5	Would there be direct/indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site?	No.
1.6	Would the project interfere with mitigation measures put in place for other plans/projects? (Look at in-combination effects with completed, approved but not completed, and proposed plans/projects. Look at projects/plans within and adjacent to Natura 2000 sites and identify/)	No.

E. SCREENING CONCLUSION

At its closest point, the River Barrow and River Nore cSAC is circa 1.1km west of the site. The closest watercourse (EPA Designated stream Donroe 14 – 14D32) is c.85m southeast. According to the OPW Discovery map, Donroe stream is sloped higher than the application site. There is no connecting pathway (direct or indirect) between this site and the European site.

The development as proposed has been assessed having regard to the requirements of the EU Habitats Directive. Given the proximity of the nearest European Site and the nature and extent of the development on the site and intervening land uses located in the area, it is considered reasonable to conclude on the basis of the information available, that the development on its own or in combination with other plans or projects, would not be likely to result in any potential significant effects on the European Site. Therefore, a Stage 2 Appropriate Assessment is not required.

Signed:	<i>Siobhan Ruer</i>	Date:	<i>14/02/2023</i>
Position:	Graduate Planner		



**Declaration on Development & Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)**

Reg. Ref: SEC5/23/07

WHEREAS a question has arisen as to whether a proposed agricultural storage shed 200m.sq at Donore, Bagenalstown, Co. Carlow, is development or is exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 2nd of February 2023 and further information received on the 2nd March 2023.

AND WHEREAS Ger O'Riordan, C/o James Kealy, Planning & Design Services, Carlow Gateway Business Centre, Athy Rd, Carlow requested a declaration on the said question from Carlow County Council;

AND WHEREAS Carlow County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- a) Sections 3 and 4 of the Planning and Development Act 2000 (as amended);
- b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended) and
- c) Schedule 2, Part 3 Class 9 of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Carlow County Council has concluded that the proposal does come within the scope of Class 9 in Part 3 of Schedule 2 (Rural) of the Planning and Development Regulations 2001 (as amended).

NOW THEREFORE Carlow County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the agricultural storage shed as detailed on the submitted declaration drawings **is development and is exempted development.**

Signed:

Nicola Lawler

Date:

16/03/2023