

12th May 2023

Carlow County Council,
Planning Authority,
County Buildings,
Athy Road,
Carlow

Re: Section 5 Exempted Development at Ballinakill, Garryhill, Co. Carlow for Mrs. Sian Ball

Dear Sir/Madam,

I hereby present a Section 5 application for an outdoor sand arena for the purpose of exercising Mrs. Ball's private horses. The proposed arena will be 50m x 50m and will be made up as follows:

1. Strip and level ground
2. Provide 6" of graded stone (hard limestone)
3. Provide drainage pipes discharging to existing gully
4. Provide geotextile heavy duty terram
5. Cover with 100m silica sand

The site for the arena is low lying with little visual impact to any of the surrounding area (see levels). It should be noted that there will be no lighting and the edges of the arena will have heavy duty concrete kerbing. There were three previous planning permissions which were all granted:

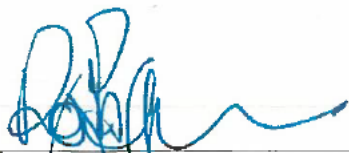
PL 17/152 Granted

PL 18/26 Granted

PL 19/433 Granted

I would be happy to elaborate on this if necessary.

Yours sincerely,



Roger Patterson Dip. Arch., BSc. Arch., FRIAI.

Mobile: 086-0237128

Email: rogerpattersonbannon@gmail.com

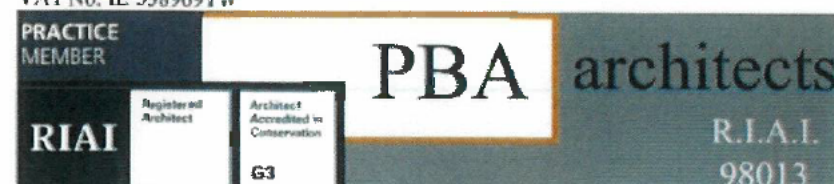
PBA architects.

R.I.A.I. 98013

Stoneyford, Kilkenny.

087 6196527

VAT No. IE 5389691W



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: SIAM BALL
2. Address of applicant: 
3. Name and address for correspondence: ROGER PATTERSON
CARRIGBEL, BOERNALESTOWN CO CARLOW
- Tel. No: 086-0237128 Fax No: E-mail: ROGER.PATTERSON
Bannon@gmail.com
4. Location of Development: Townland: GARRYHILL
Postal Address: (if different from Townland): R21 TN93
5. Name and Address of Agent: ROGER PATTERSON OPARU, B50004 FRIAR
086-0237128 - ROGER.PATTERSON.Bannon@gmail.com
6. Outline clearly the description of the development / proposal: 50M x 50M OUTDOOR SAND ARENA
WITH NO LIGHTING, FOR EXERCISING
HORSES

7. Is this a Protected Structure or within the curtilage of a Protected Structure: NO

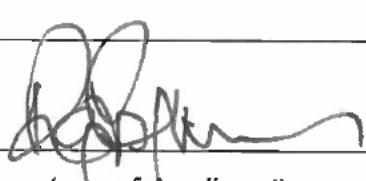
8. List any previous applications relating to the site: SEE ADJOINING LETTER

9. Are you aware of any enforcement proceedings relating to this site: NO

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

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

ORDNANCE map, EXPLANATION LETTER
LEVELS map, APPLICATION FEE

Signed: 
(Signature of Applicant)

Date: 11-MAY 23.

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.



15 MAY 2023
MANNING DEPAUL & BENT
DUBLIN COUNTY COUNCIL



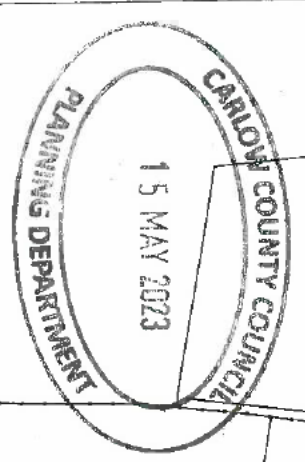
LEGEND	
	Boundary Line
	Road Edge
	Highway
	Water Feature
	Stone Wall
	Step Curb
	Trench Cover
	Road Sign
	Junction Box
	Street Light
	Lamp Standard
	Telegraph Pole
	Electricity Pole
	Hedge Row
	Tree
	Survey Station
	Survey Junction
	Inspection Cover

Note:
ITM Irish Transverse Mercator
Co-ordinate System Used
North-South refers to Grid North
Level Tied to Ordnance Datum (Mean Sea Level)

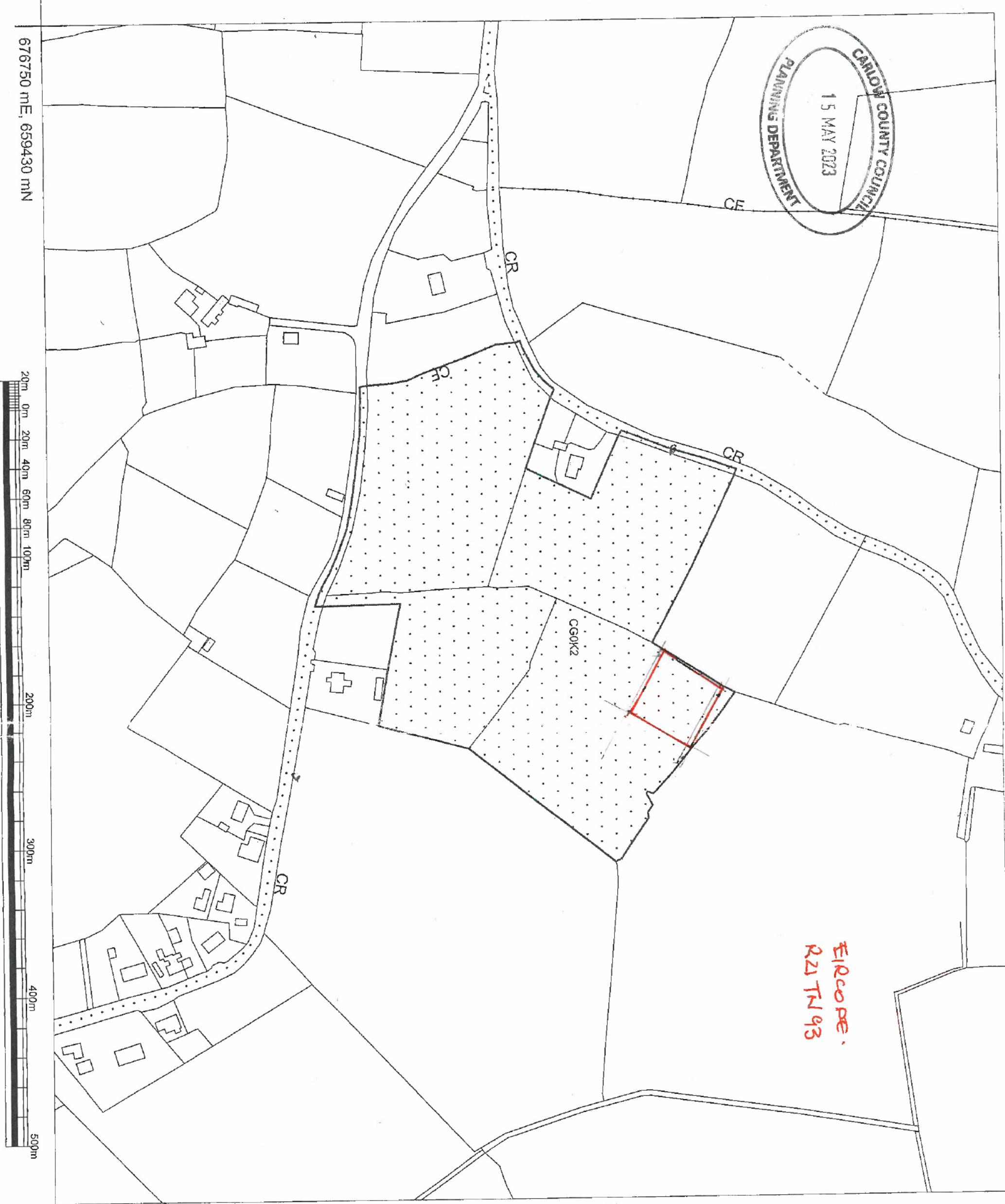
Lands at Garryhill Bagnalstown, Co. Carlow	
PREMIER SURVEYS LTD.	
Geo-surveying and Mapping Service No. 4 Old Baker St., Thurles, Co. Tipperary Tel/Fax 0504-26714	
Date	05/08/12
Scale	1:500 @ A1
Drawing title	Contour Survey
Drawn	C.R.
Checked	
Drawing no.	170803G Rev2

Ordnance Survey Ireland Licence No. EN 0056617
© Ordnance Survey Ireland/Government of Ireland

677550 mE, 660080 mN



FEIRCODE
R21 TN 93



676750 mE, 659430 mN



The Property
Registration Authority
An tÚdarás
Clárúcháin Maoine

Folio: CW27925F

This map should be read in conjunction with the folio. The description of the land on the folio and map is not conclusive as to the boundaries or extent of the land (see Section 85 of the Registration of Title Act, 1964), as substituted by Section 62 of the Registration of Deeds and Title Act 2006.

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

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

Freehold (centre-line of parcel edge aligned)



Leasehold (centre-line of parcel aligned)



Burdens (may not all be represented on map)



Right of Way / Wayleave

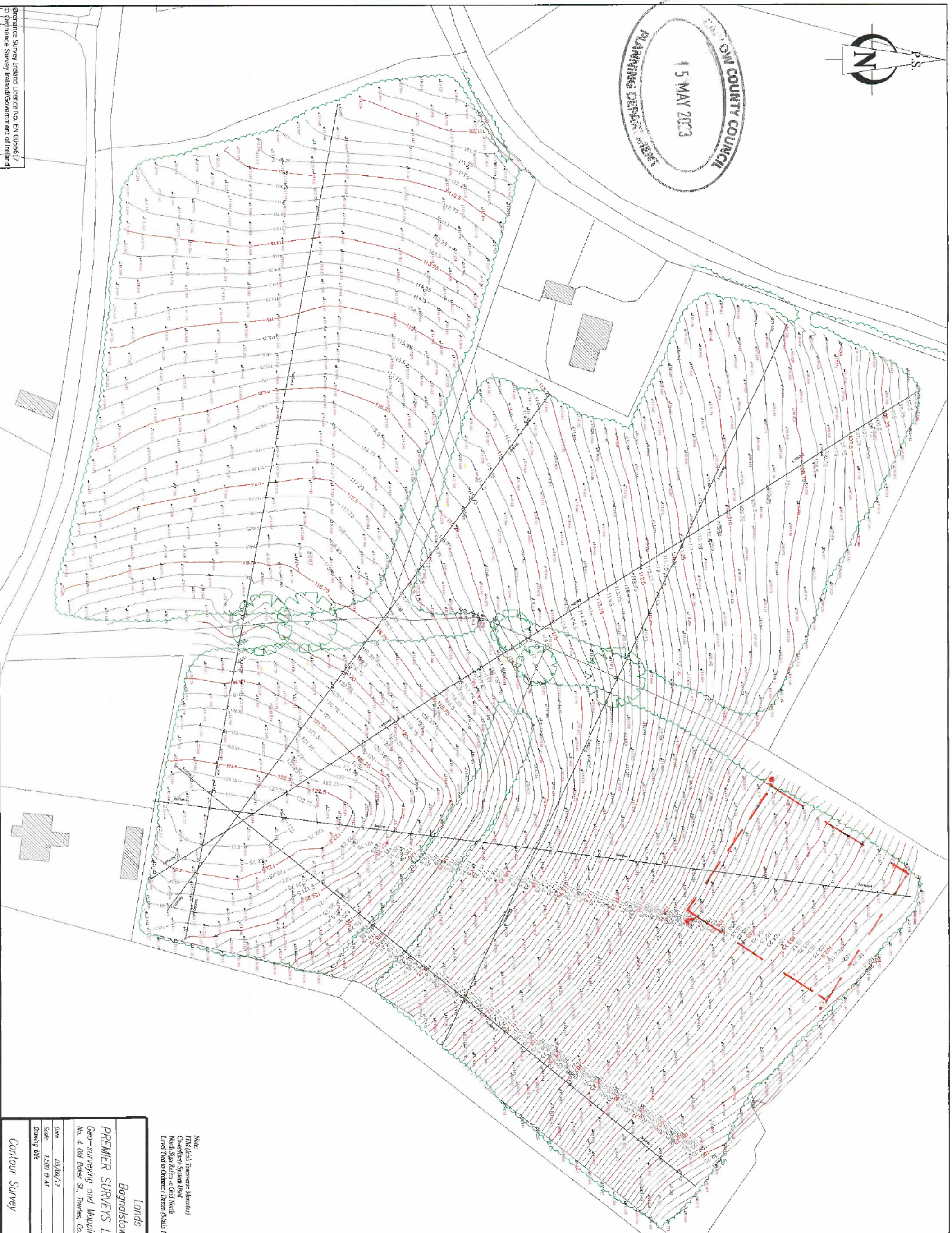
A full list of burdens and their symbology can be found at:
www.landdirect.ie

For use by The Property
Registration Authority only



Created
Application No.: D2009LR205687K
Date: 09 December 2009 11:01:00

1:2500 Scale



LEGEND

	Boundary Line
	Road Side
	Road
	Water Area
	Stone Wall
	Stop Sign
	T-junction
	T-junction
	Road Sign
	Junction Box
	T-junction
	Lamp Standard
	Telegraph Pole
	Electricity Pole
	Hedge Bank
	Tree
	Survey Station
	Arched Junction
	Inspection Cover

Note:
ITM (Irish Transverse Mercator)
Co-ordinate system used
Road Sign Refer to Grid North
Level Tied to Ordnance Datum (Mean Sea Level)

Lands at Carrhill
Bognalstown, Co. Carlow

PREMIER SURVEYS LTD.

Geo-surveying and Mapping Service
No. 4 Old Biter St., Thurles, Co. Tipperary tel/fax 0504-26714

E-mail info@premier-surveys.com

Date 09/08/17
Scale 1:500 @ A1
Drawing title
Drawing no.

Contour Survey

170803G Rev2

CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT

SECTION 5 DECLARATION



COMHAIRLE CONTAE
CHEATHARLACH
CARLOW COUNTY COUNCIL

Reg. Ref.	SEC5/23/20
Name of Applicant	Sian Ball
Address of Development	Ballinakill, Garyhill, Carlow
Site Visit	26/05/2023
Development Description	The development consists of an outdoor sand arena for the purpose of exercising horses.

1) Site Location/Context

The Section 5 declaration relates to the provision of an outdoor sand arena for the purpose of exercising horses. The site is accessed via a private laneway from the local road (L-7006). The site is located within the Central Lowlands Landscape Character Area and consists of Framed Ridges Landscape Type.

Aerial View of Site Location



2)Relevant Planning History

17/152 – Permission granted for the construction of a new single storey 205m² dwelling, site entrance, on site waste water treatment system and all associated site works at Garryhill, Co.Carlow. (Applicant: Sian and Graham Ball).

18/26 – Permission granted for a revised house location from that previously granted under PL17/152 (Applicant: Sian and Grahame Ball).

19/371 – Incomplete application seeking permission for the construction of an Equestrian Training Centre, including cross-country all-weather tracks and jumps, car parking and sign, a small office / toilet facility connected to previously granted wastewater treatment system, (as granted 05/92) to be upgraded to facilitate the development and associated site development works. (Applicant: Sian and Graham Ball).

19/433 – Permission granted for the construction of an equestrian training centre including cross-country all-weather tracks and jumps, car parking and sign, small office/toilet facility with toilet connected to previously granted wastewater treatment system, (as granted 17/152, 18/26) to be upgraded to facilitate the development and all associated site works (Applicant: Sian and Graham Ball).

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 provision of a sand arena for the purpose of exercising horses constitutes exempted development.

The proposed arena will be 50m x 50m and will consist of the following;

- strip and level ground,
- provide 6in of graded stone (hard limestone),
- provide drainage pipes discharging to existing gully,
- provide geotextile heavy duty terram, and
- cover with 100m silica sand.

According to the cover letter submitted to the Planning Authority on 15/05/2023, there is no lighting proposed and the edge of the arena will have heavy duty concrete kerbing.

4)Relevant Legislative/Regulatory Provisions

Planning and Development Act 2000 (as amended)

- Section 2

“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.

- Section 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 and Development Regulations 2001 (as amended)

- 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(1)

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 comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 meters in width,
- (iii) endanger public safety by reason of a traffic hazard or obstruction of road users.

- Class 10 in Part 3 of Schedule 2 (Exempted Development- Rural)

“The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.”

5) Assessment

Class 10, 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 10 requires compliance with the 4 No. conditions/limitations outlined below.

1.	<i>No such structure shall be used for any purpose other than the exercising or training of horses or ponies.</i> Assessment: As evident in the cover letter submitted to the Planning Authority on 15/05/2023, the proposed sand arena shall be used for the purpose of exercising Mrs. Ball's private horses.
2.	<i>No such area shall be used for the staging of public events.</i> Assessment: As previously mentioned, the proposed sand arena shall be used for the purpose of exercising Mrs. Ball's private horses.
3.	<i>No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.</i> Assessment: At its closest point, the proposed sand arena is c. 127m away from the public road and is accessed via a private laneway serving the existing property.
4.	<i>The height of any such structure shall not exceed 2 metres.</i> Assessment: As evident in the cover letter submitted to the Planning Authority on 15/05/2023, the edge of the arena will have heavy duty concrete kerbing.

6) Recommendation

Based on the information submitted the Planning Authority are satisfied that the proposed sand arena falls under Class 10 exempted rural development as the proposed sand arena shall be used for the purpose of exercising Mrs. Ball's private horses, is located c. 127m away from the public road and is accessed via a private laneway serving the existing property and shall not exceed 2 meters in height. It is not considered that the proposed development would be restricted by virtue of the requirements of Article 9.

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 10 of the Planning and Development Regulations 2001.

It is therefore considered that the proposed sand arena for the purpose of exercising horses **is development and is exempted development.**

A draft order is set out below.

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

Reg. Ref: SEC5/23/20

WHEREAS a question has arisen as to whether a proposed sand arena for the purpose of exercising horses at Ballinakill, Garyhill, Co. Carlow is development and whether it is or is not exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 15th of May 2023.

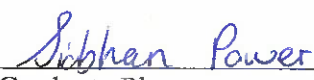
AND WHEREAS Sian Ball, C/o PBA architects, Stoneyford, Kilkenny, requested a declaration on the said question from Carlow County Council;

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 2 and 3 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 10 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 10 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 sand arena as detailed on the submitted declaration drawings **is development and is exempted development.**


Graduate Planner

Date: 29/05/2023


Senior Planner

Date: 20/5/23.

Appendix 1

APPROPRIATE ASSESSMENT SCREENING REPORT

Planning Application Reg. Ref: SEC5/23/20

A. DESCRIPTION OF PROJECT AND LOCAL SITE

Site Location:	Ballinakill, Garyhill, Carlow
Total Site Area:	Unknown.
Floor Area of Proposed Development:	50m x 50m = 2,500m ² .
Identification of Natura 2000 site(s):	River Barrow and River Nore cSAC
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 7.04km west of the site. The closest watercourse (EPA Designated stream Clonee_west – 14C75) is c.247.1m east. According to the EPA Maps, the Clonee_west watercourse flows north-east to adjoin the Burren River. Having regard to the site's topography and the scale of the proposed development, 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>Sibhan Power</i>	Date:	<i>29/05/2023</i>
Position:	Graduate Planner		

Appendix 2
Site Inspection 26/05/2023





Declaration on Development & Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)
Reg. Ref: SEC5/23/20

WHEREAS a question has arisen as to whether a proposed sand arena for the purpose of exercising horses at Ballinakill, Garyhill, Co. Carlow is development and whether it is or is not exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 15th of May 2023.

AND WHEREAS Sian Ball, C/o PBA architects, Stoneyford, Kilkenny, 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 2 and 3 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 10 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 10 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 sand arena as detailed on the submitted declaration drawings **is development and is exempted development.**

Signed:

Date:

31.5.23