

Planning & Design Services

Address : Carlow Gateway Business Centre,
Athy Rd., Carlow.
Mobile: (085)1002200 & (087)6213686
E- mail: jkplanning@outlook.com

Planning Dept.
Carlow Co. Council,

Dear Sir/Madam,

Please find attached Application Form for Section 5
Declaration on Development & Exempted Development, for Brian O'
Farrell, Scorteen , Borris, Co. Carlow.

The applicant wishes to make this application in order to carry out
exempt works under Class 6/9 agricultural shed consisting of dungstead,
stables & hay store.

Please find attached the necessary drawing & documents to support this
application.

Hoping all is to your satisfaction and should you have any query please do
not hesitate to contact me.



Yours Sincerely,
James Kealy

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: Brian O' Farrell
2. Address of applicant: [REDACTED]
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: Scorteen, Borris, 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
exempt works under Class 6/9 Proposed agricultural shed consisting of a dungstead,
stables & hay store

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: _____

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 1:2,500 / 1:10,560

* Plans elevation section 1:50

* Site layout 1:500

Signed: _____

(Signature of Applicant)

Date: 12/04/2023

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

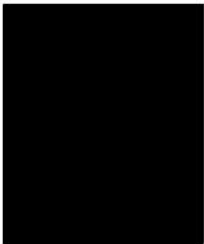
OFFICE USE ONLY

Date Received: _____

Date Decision Due: _____

Date of Decision: _____

Recommendation: _____



14th May 2023

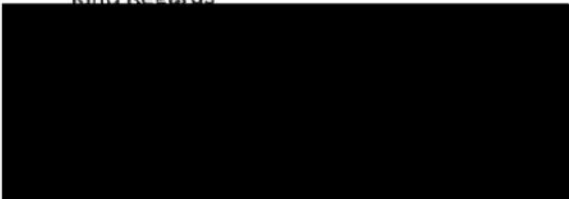
Dear Sir/Madam,

Joanne Fitzgerald and Brian O'Farrell of  are our neighbours.

They have discussed their plans with us in relation to the construction of horse stabling and associated storage areas in the vicinity of their house here in Scortheen. We do not have any objections.

Should you have any queries, please do not hesitate to contact us.

Kind Regards



Rosemary and Paul Monahan



Subject:

Ref: 2023

Ref: 2023

Ref: 2023

Ref: 2023

3rd April 2023

To Whom it May Concern

Brian O'Farrell and Jeanne Fitzgerald of [REDACTED] are my neighbours here in Scurteen.

They have discussed their plans with me in relation to the construction of Horse Stables and associated feed storage area etc in the vicinity of their house here in Scurteen, to which I do not have any objections.

Should you have any queries, please do not hesitate to contact me.

Kind Regards

Eileen Kelly

[REDACTED]



3rd April 2023

3rd April 2023



To Whom it May Concern

Brian O'Farrell and Joanne Fitzgerald of Scorteen, Borris, Co Carlow, R95 HSP9 are my neighbours here in Scorteen.

They have discussed their plans with me in relation to the construction of Horse Stables and associated feed storage area etc in the vicinity of their house here in Scorteen, to which I do not have any objections.

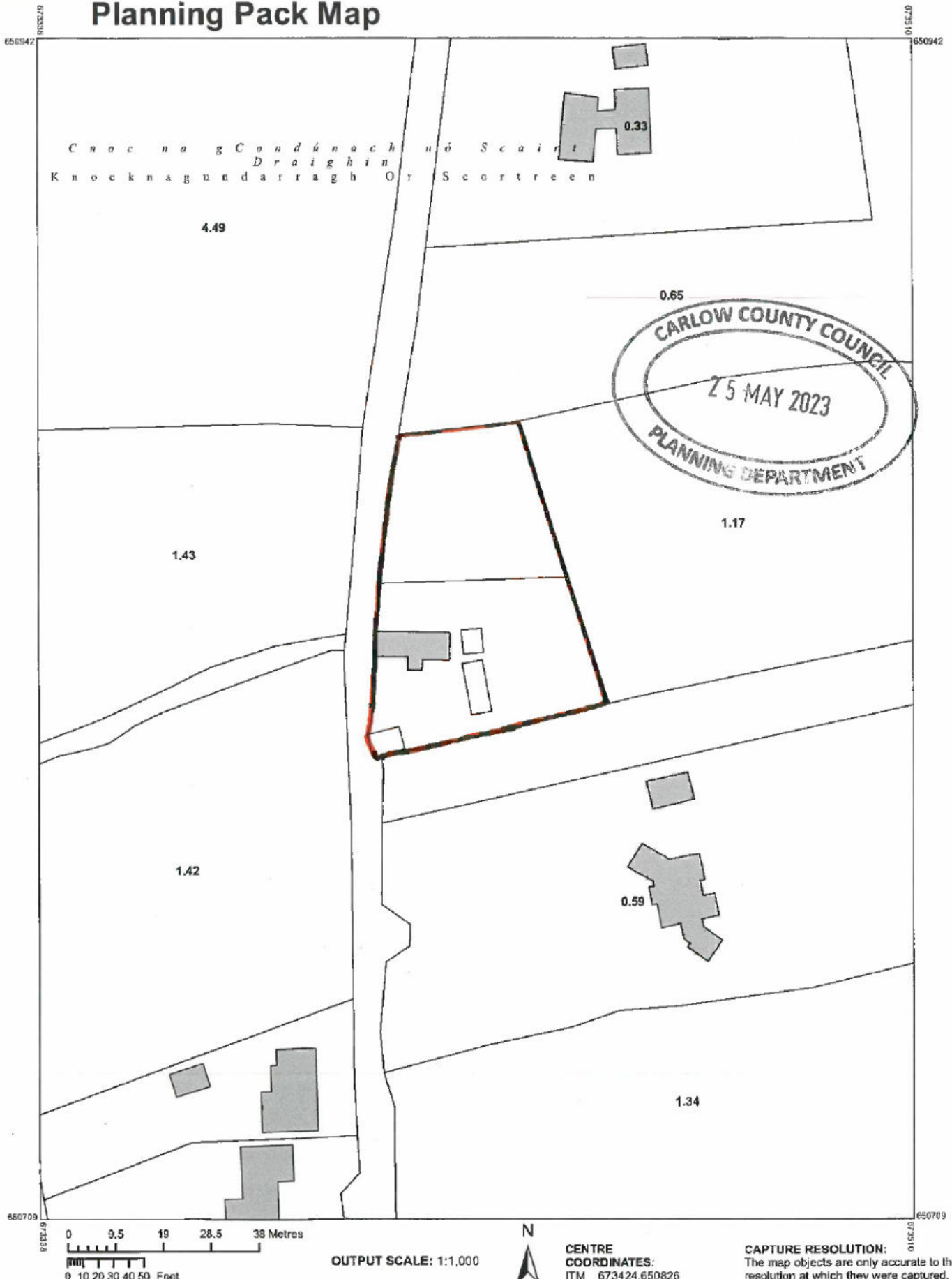
Should you have any queries, please do not hesitate to contact me.

Kind Regards

Eileen Kelly



Planning Pack Map



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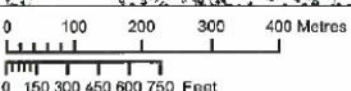
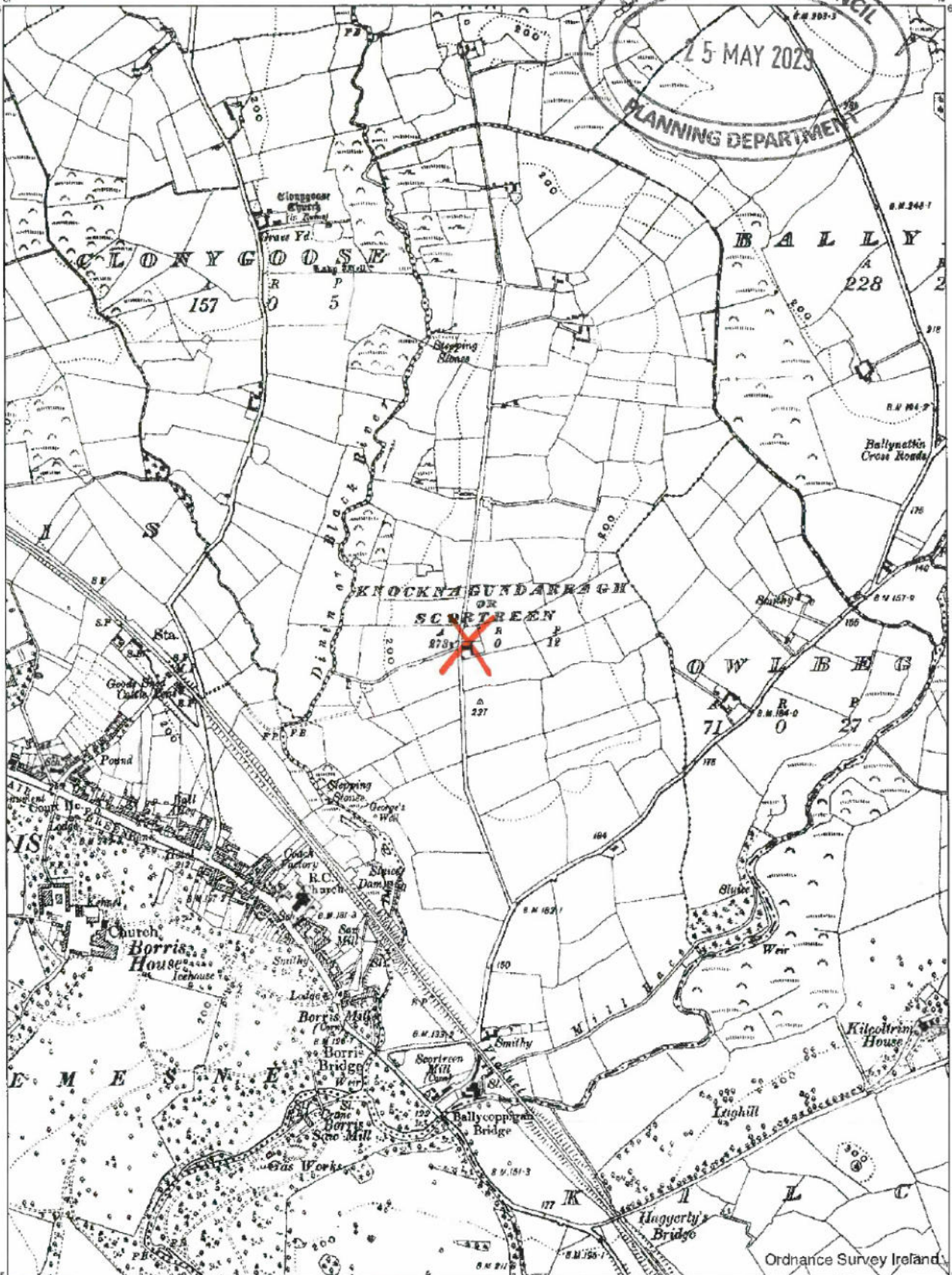


site in RED



**Tailte
 Éireann**

Site Location Map



OUTPUT SCALE: 1:10,560



CENTRE COORDINATES:
ITM 673424,650826

PUBLISHED: 28/04/2023
MAP SERIES: 6 Inch Raster
6 Inch Raster

ORDER NO.: 50331896_1
MAP SHEETS: CW022 KK025

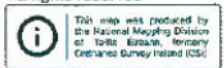
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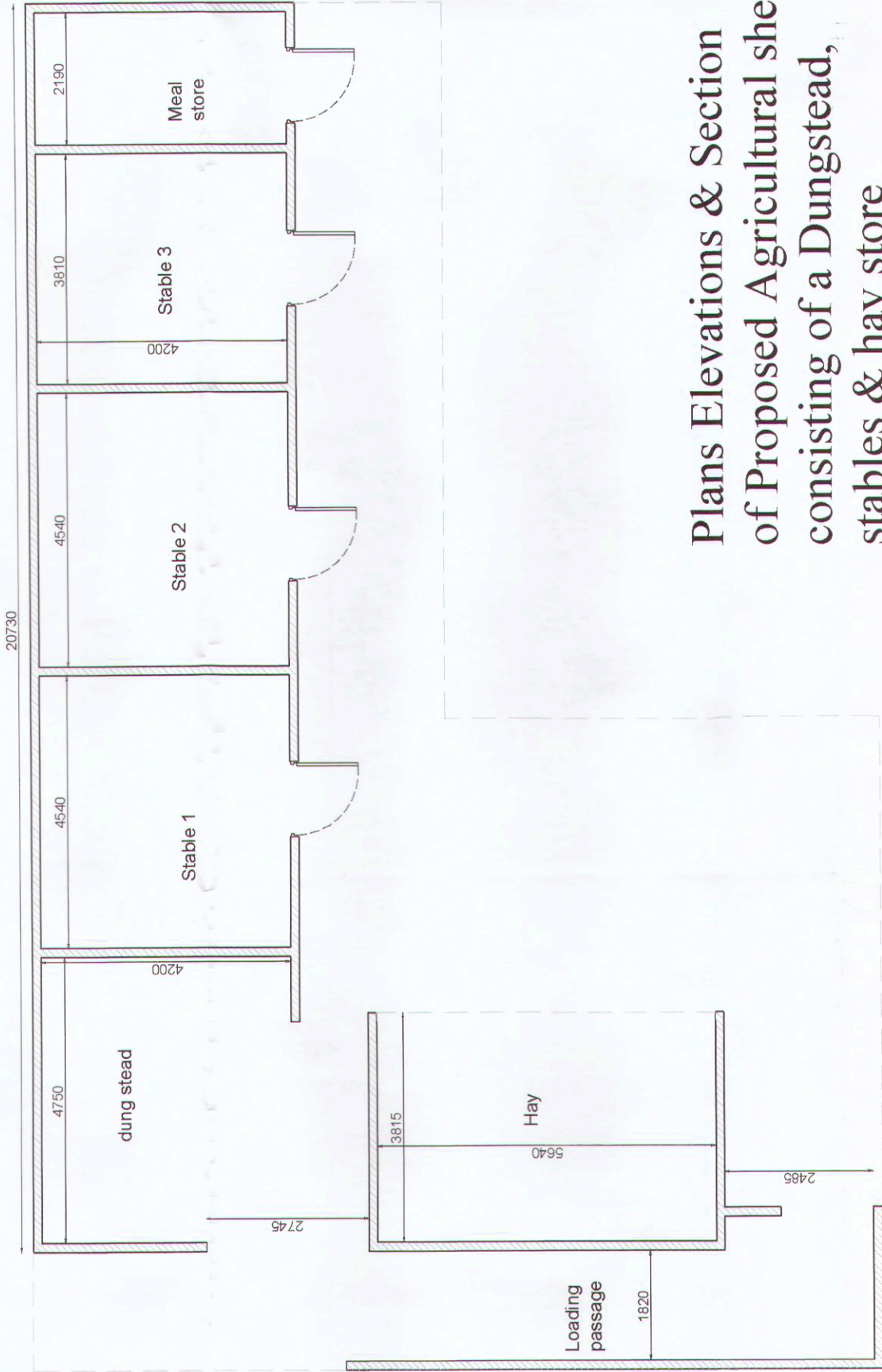
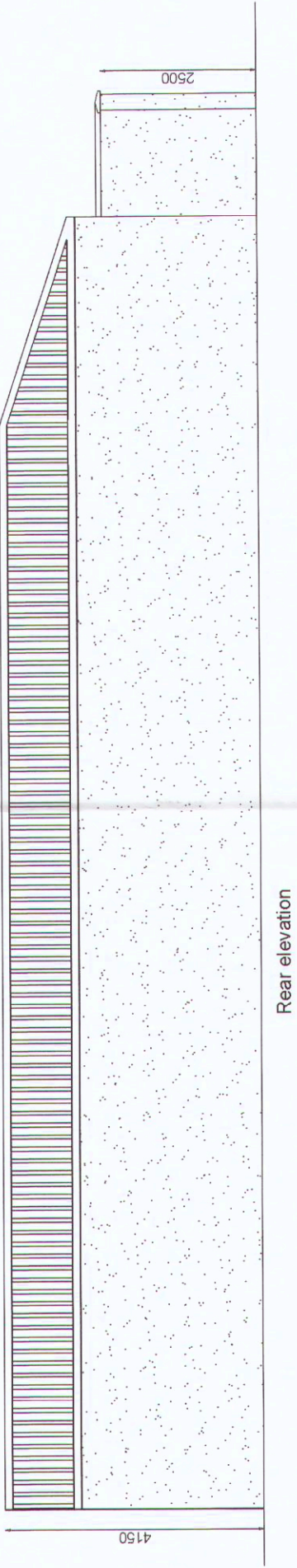
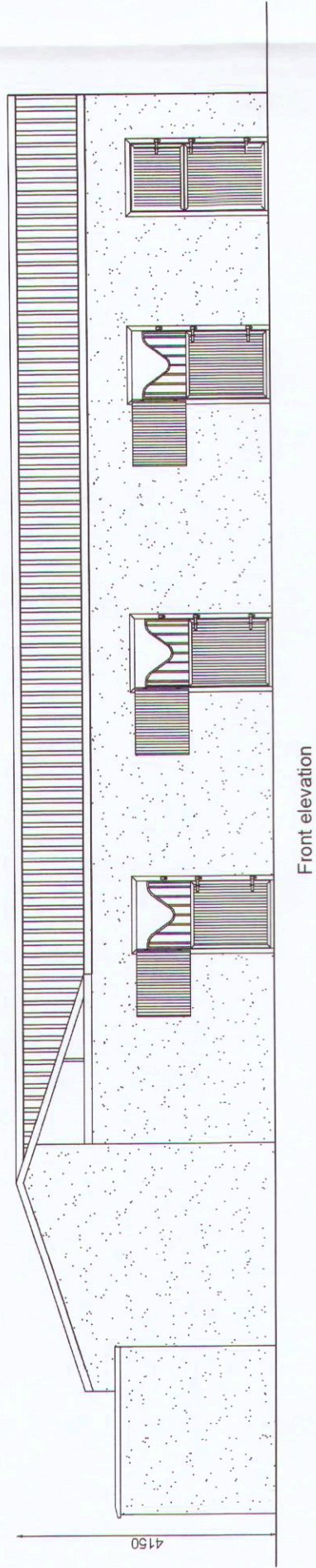
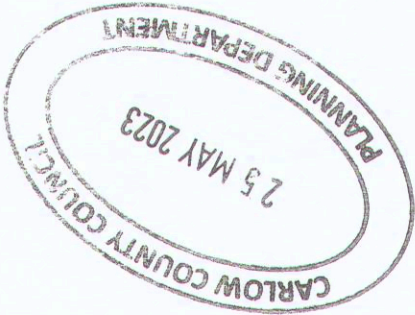
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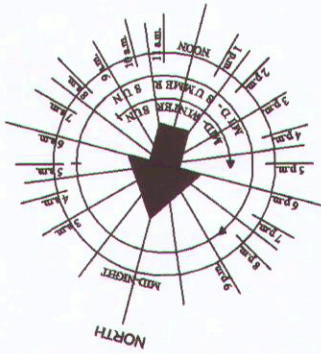
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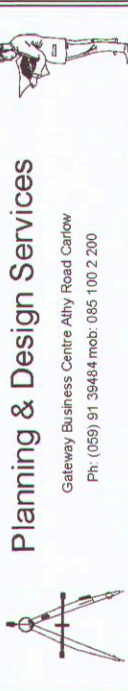


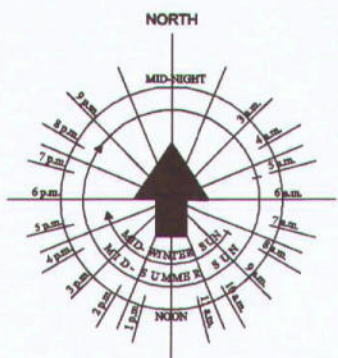
Finishes
Napp Plaster finish to walls,
concrete floors throughout,
box profile sheeting to roof,

NOTE
Ground Conditions & Foundation
Trenches to be inspected by
supervising Architect/ Engineer
Before Pouring of any Foundations
material commences.

All Drawings Are Solely For Purposes Of Seeking Planning Permission & are NOT yet Finalised all
measurements are approximate & have yet to be validated. No while every effort has been made to
ensure accuracy the Architect does NOT accept any responsibility for any
inaccuracy that may be found therein.



			
Planning & Design Services			
Gateway Business Centre Athy Road Carlow Ph: (059) 81 38484 mob: (085) 100 2 200			
CLIENT: Brian Joanne O'Farrell		DRAWING NO: James Kelly	
PROJECT: Exempt works under Class 6 (g) Proposed Agricultural shed consisting of a Dungstead, stables & hay store			
TITLE: Proposed Shed		DRAWING NO: 05-04-07-03	
DATE: April 2023		SCALE: 1:100 / A2	
PAPEROUSE: Lanes Co. Council			
AUTHORITY: Lanes Co. Council			
REVISION:			
Do Not Scale from this Drawing. Check All Dimensions on Site.			



Site Area
0.23 ha.

Neighboring Buildings



Proposed Works



Site Layout
Scale 1:500

Site Red Bounded

All Drawings Are Solely For Purposes Of Seeking Planning Permission & are NOT yet Finalised as 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.

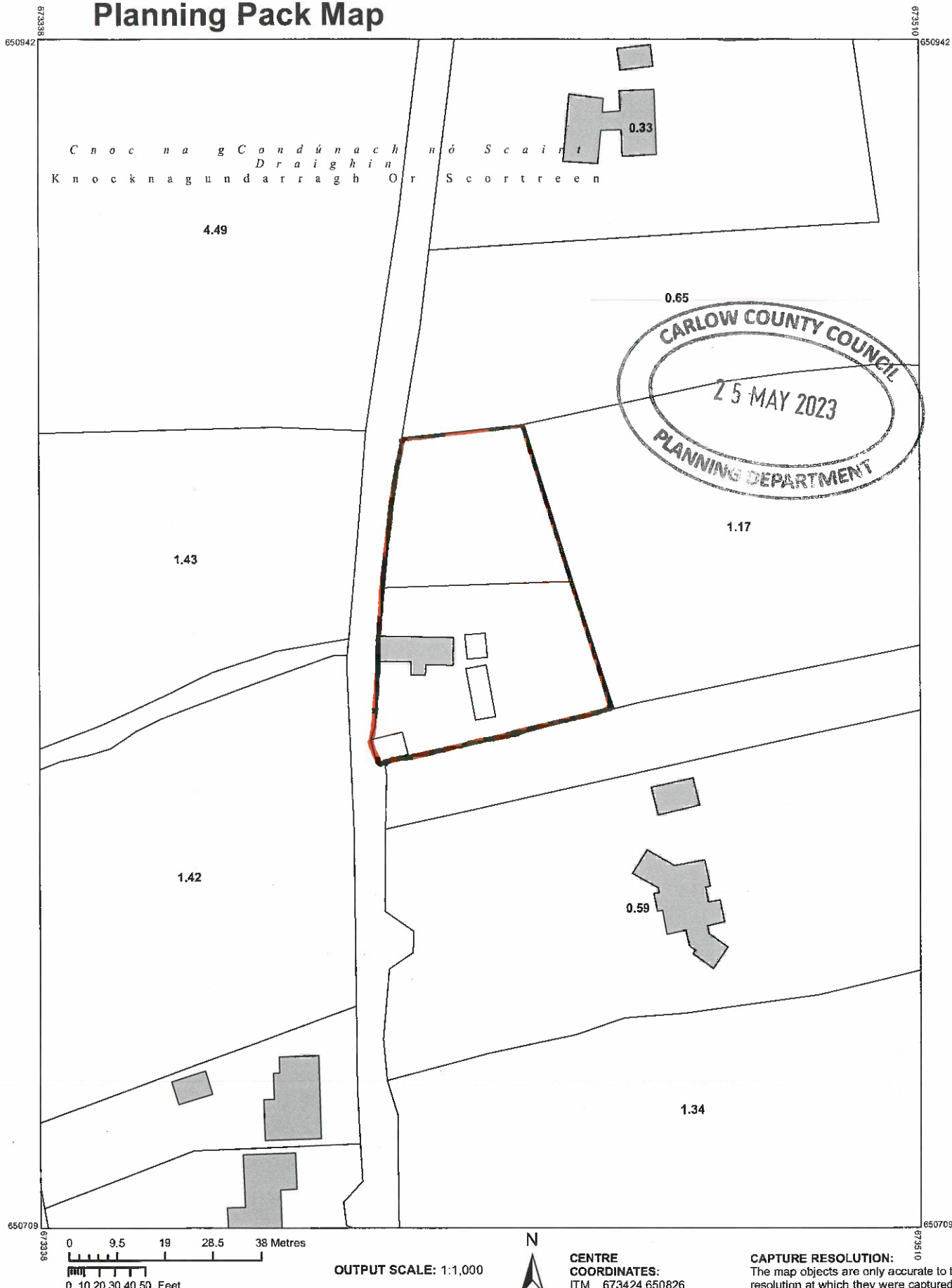
Planning Meeting:		NONE
Drawing Description:	Proposed Plans	
Previous Planning On-Site:	2004	PL No. 04/1288
ISSUE	DATE	

Planning & Design Services
Gateway Business Centre Athy Road Carlow
Ph: (059) 91 30484 mob: 085 100 2 200

CLIENT:	Brian Joanne O'Farrell	DRAWN BY:	James Kealy
PROJECT:	Exempt works under Class 6/9 Proposed Agricultural shed consisting of a Dungstead, stables & hay store		
TITLE:	Site Layout	SCALE:	1:500 / A2
DATE:	April 2023	DRAWING NO:	01-04-01-23
PURPOSE:			
AUTHORITY:	Carlow Co. Council		
REVISION:			

Do Not Scale From This Drawing. Check All Dimensions on Site.

Planning Pack Map



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**CENTRE
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 ITM 673424.650826

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 28/04/2023

MAP SERIES:
 1:2,500

ORDER NO.:
 50331896_1

MAP SHEETS:
 4895-A

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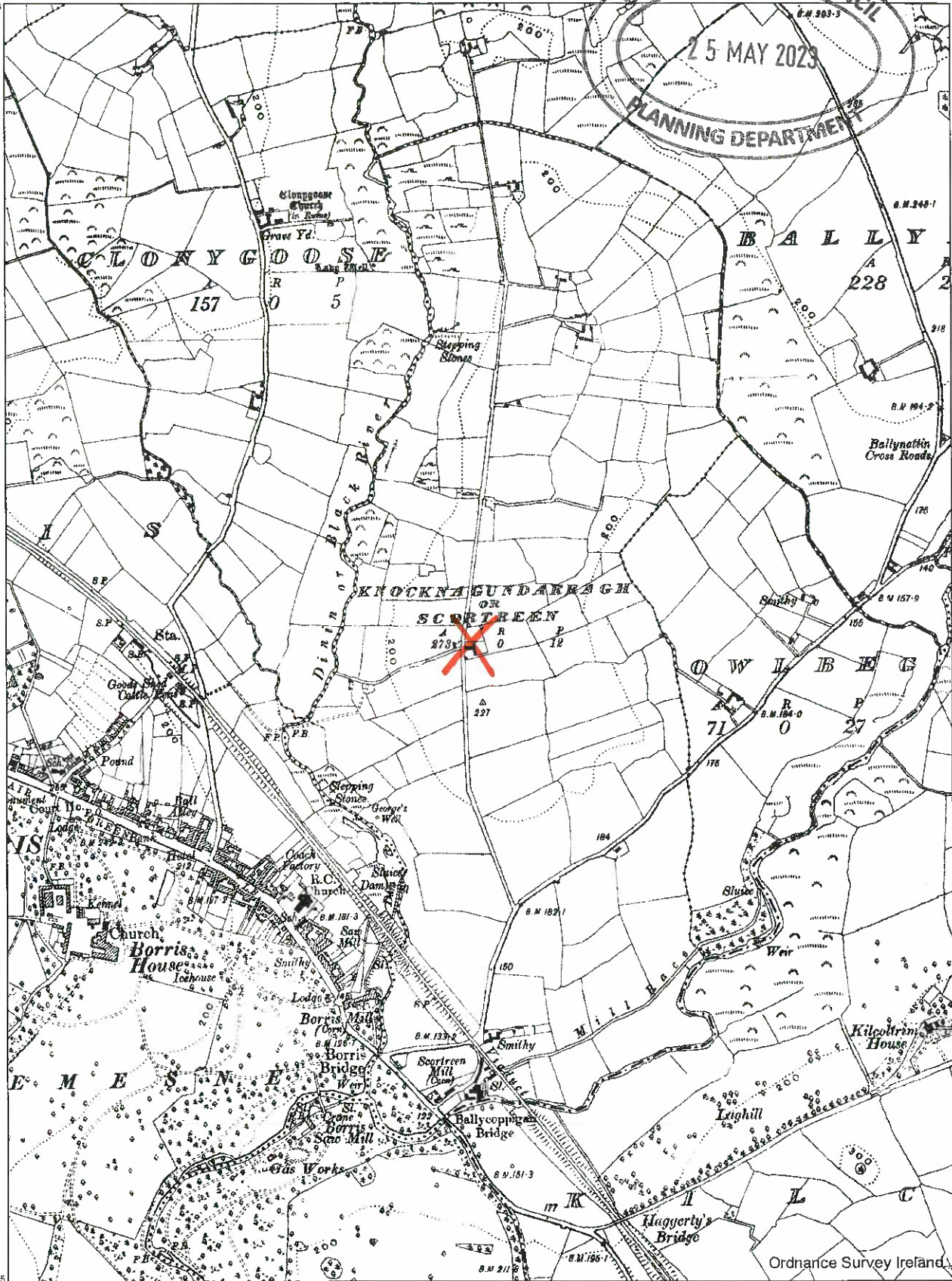
Site in RED



**Tailte
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Site Location Map

CARLOW COUNTY COUNCIL
25 MAY 2023
PLANNING DEPARTMENT



OUTPUT SCALE: 1:10,560

CENTRE
COORDINATES:
ITM 673424,650826

PUBLISHED:
28/04/2023
MAP SERIES:
6 Inch Raster
6 Inch Raster

ORDER NO.:
50331896_1
MAP SHEETS:
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KK025

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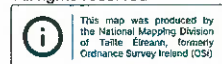
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CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT
SECTION 5 DECLARATION



COMHAIRLE CONTAE
CHEATHARLACH
CARLOW COUNTY COUNCIL

Reg. Ref.	SEC5/23-21
Name of Applicant	Brian O Farrell
Address of Development	Scorteen, Borris, Carlow
Development Description	Proposed new agricultural shed (218m.sq) comprising of stables, dungstead and hay store.

1) Site Location/Context

The Section 5 declaration relates to the site of an existing dwelling house and outbuildings located on a rural cul de sac 0.5km north of Borris town. The cul-de-sac is a local road (L-30061). The outbuildings appear to be in use as domestic storage. The proposed agricultural shed is to be located in the northeast corner within the curtilage of the dwelling house and will be served by the same access. Directly adjoining to the north is a paddock for horses. The declaration is seeking to determine if constructing a stable, dung stead and a hay store is development or is exempted development.



Site Location

2) Relevant Planning History

16/306- Permission granted for the renovation of and alterations to an existing single storey cottage; construction of a new two storey extension to the rear and side of the cottage; installation of solar panels; new wastewater treatment system; new well; relocation of site entrance to location north of the existing entrance; renovation of and alterations to existing granite outbuilding; new boundary wall to road; landscaping and all associated site works.

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 a new agricultural shed for use as a stables, dungstead and haybarn constitutes exempted development. A floor area has not been stated for the proposed development, but it measures as c.108.304m. sq. The proposed agricultural shed will be positioned on the northeast corner of the site. The referral is made under Class 6 and 9.

4) Legislative Context

The proposal will be assessed within the provisions of:

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

‘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...*’.

“exempted development” has the meaning specified in section 4 (see overleaf).

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and “agricultural” shall be construed accordingly;

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon;

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

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*’.

Section 4(1) Exempted Development-The following shall be exempted developments for the purposes of this Act—

- (a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used.

Class 6 of Part 3 of Schedule 2 relates to the following development:

‘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.’

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."

The referral application form specifies that the exemption is sought under Class 6 or Class 9 both of which relate to lands in agricultural use.

5) Assessment

Based on a site inspection carried out on the 12/06/2023, and consideration of the site's history as well as information submitted with the referral the Planning Authority deem the existing use of the subject lands to be residential with associated ancillary uses. Therefore, the exemptions pertaining to agricultural use cannot be availed of.

Section 4 of the Act states development shall be exempt where it consists of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used. The subject site is in residential use and from site inspection does not appear to be served by an existing farmyard or farm building.

The information submitted in support of the referral states that the proposal will be for stabling horses and that the applicant leases 20 acres and has a herd number (A1070374). Maps of the landholding being leased have not been submitted. In accordance with Section 4, a roofed structure for the housing of horses needs to be on an agricultural landholding with an established agricultural use, in order to avail of the exemptions in either Class 6 or Class 9 of the Regulations.

Whether the development constitutes exempted development or not requires consideration of Section 4 of the Act which states development shall be exempt where development consists of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used. In accordance with Section 4, the shed is required to be located on an agricultural landholding with an established agricultural use, in order to avail of the exemptions in Class 6 or Class 9 of the Regulations. The current use of the land is not for an agricultural purpose and accordingly the provisions of Class 6 or Class 9 in Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) cannot be availed of.

It is considered that the erection of a proposed new agricultural shed (218m.sq) comprising of stables, dungstead and hay store within the curtilage of an existing dwelling house constitutes development and is not exempted development.

6) Recommendation: Not Exempt

Having regard to the foregoing, it be decided that the erection of a proposed new agricultural shed (218m.sq) comprising of a stables, dungstead and hay store within the curtilage of an existing dwelling house is **development and is not exempted development.**

A draft order is set out below.

Signed: 
Executive Planner
Date: 20/06/23

Signed: 
Senior Planner
Date: 20/6/23

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether the erection of a proposed new agricultural shed (218m.sq) comprising of a stables, dungstead and hay store within the curtilage of an existing dwelling house at Scorteen, Borris, Carlow, is or is not development and is or is not exempted development.

AS INDICATED on the plans, particulars and reports received by the Planning Authority on the 25/05/2023;

AND WHEREAS, Brian O Farrell, [REDACTED] 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;

Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);

Articles 5, 6 and 9 of the Planning and Development Regulations 2001 (as amended);

Class 6 and Class 9 in Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended);

AND WHEREAS Carlow County Council has concluded that:

The erection of a proposed new agricultural shed (218m.sq) comprising of a stables, dungstead and hay store within the curtilage of an existing dwelling house is not located on land in use for agricultural purposes accordingly the provision of Section 4 (1)(a) pertaining to exempted development are not applicable and therefore the development cannot be considered pursuant to Class 6 or Class 9, Part 3 of Schedule 2 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 erection of a proposed new agricultural shed (218m.sq) comprising of a stables, dungstead and hay store within the curtilage of an existing dwelling house at Scorteen, Borris, Carlow as detailed on the submitted declaration drawings **is development and is not exempted development.**

Appendix 1

APPROPRIATE ASSESSMENT SCREENING REPORT

Planning Application Reg. Ref: SEC5/23/21

A. DESCRIPTION OF PROJECT AND LOCAL SITE

Site Location:	Scorteen, Borris, Carlow
Total Site Area:	n/a
Floor Area of Proposed Development:	218sq.m
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.

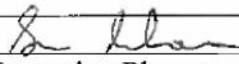
1.1	Would there be any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance)	No.
1.2	Would there be a reduction in habitat area on a Natura 2000 site?	No.
1.3	Would there be direct/indirect damage to the physical quality of the environment (e.g. water quality and supply, 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

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: 

			
Position:	Executive Planner	Date:	20/06/23



**Declaration on Development & Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)
Reg. Ref: SEC5/23/21**

WHEREAS a question has arisen as to whether the erection of a proposed new agricultural shed (218m.sq) comprising of a stables, dungstead and hay store within the curtilage of an existing dwelling house at Scorteen, Borris, Carlow, is or is not development and is or is not exempted development.

AS INDICATED on the plans, particulars and reports received by the Planning Authority on the 25/05/2023;

AND WHEREAS, Brian O Farrell, [REDACTED] 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;

Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);

Articles 5, 6 and 9 of the Planning and Development Regulations 2001 (as amended);

Class 6 and Class 9 in Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended);

AND WHEREAS Carlow County Council has concluded that:

The erection of a proposed new agricultural shed (218m.sq) comprising of a stables, dungstead and hay store within the curtilage of an existing dwelling house is not located on land in use for agricultural purposes accordingly the provision of Section 4 (1)(a) pertaining to exempted development are not applicable and therefore the development cannot be considered pursuant to Class 6 or Class 9, Part 3 of Schedule 2 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 erection of a proposed new agricultural shed (218m.sq) comprising of a stables, dungstead and hay store within the curtilage of an existing dwelling house at Scorteen, Borris, Carlow as detailed on the submitted declaration drawings **is development and is not exempted development.**

Signed:

Nicola Lawler

Date:

21/06/2023