



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Paul Clancy
C/o Patrick Conlon
Clohanmore
Cree
Co. Clare
V15 HP77**

6th March 2024

Section 5 referral Reference R24-17 – Paul Clancy

Is the construction of a livestock slatted unit at Derrylea, Kildysart development and if so, is it exempted development?

A Chara,

I refer to your application received on 21st February 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie

Mise, le meas

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

**An Roinn Pleanála
An Stúirthóireacht 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: 83254
Reference Number: R24-17
Date Referral Received: 21st February 2024
Name of Applicant: Paul Clancy
Location of works in question: Derrylea, Kildysert, Co. Clare

Section 5 referral Reference R24-17 – Paul Clancy

Is the construction of a livestock slatted unit at Derrylea, Kildysert 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, 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,
- (c) Class 6 and Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on 21st February 2024.

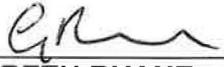
AND WHEREAS Clare County Council has concluded:

- (a) The development of the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea, Kildysert, County Clare, constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development of the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea, Kildysert, County Clare, is exempted development having regard to Class 6 and Class 9 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to 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 livestock slatted unit and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea, Kildysert, Co. Clare is considered development which is exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

6th March 2024

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

Reference No.: R24-17



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R24-17

Is the construction of a livestock slatted unit at Derrylea, Kildysart development and if so, is it exempted development?

AND WHEREAS, Paul Clancy 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, 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,
- (c) Class 6 and Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on 21st February 2024.

And whereas Clare County Council has concluded:

- (a) The development of the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea, Kildysert, County Clare, constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development of the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea, Kildysert, County Clare, is exempted development having regard to Class 6 and Class 9 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

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 livestock slatted unit and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea, Kildysert, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

Anne O'Gorman

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

6th March 2024

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT 1

FILE REF:	R24-17
APPLICANT(S):	Paul Clancy
REFERENCE:	Whether the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea Kildysert, County Clare is not development and is or is not exempted development.
LOCATION:	Derrylea Kildysert County Clare
DUE DATE:	18 th March 2024

Site Location

The proposal site is located in the rural townland of Derrylea which is approximately 2km northwest of Kildysert. It is to the northeast of the LP2128 local primary road and is located above the level of same. The area between the proposed shed and the road is wooded, and this significantly reduces the views available towards the site from the public road. The site is located within a Settled Landscape as per the Clare County Development Plan 2023-2029. I inspected the site on the 05th March 2024.

Recent Planning History

Onsite

None.

South West

23-299 – Granted - Ken Moloney - To construct a new dwelling house and waste water treatment system including all ancillary site services and works.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Paul Clancy who states that he is seeking a Section 5 Declaration as to whether the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea Kildysert, County Clare is or is not development and is or is not exempted development. Mr Clancy is the stated owner of the site.

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.

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

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

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

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,*
 - (iii)(a) *endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
 - (iv) *interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

(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

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea Kildysert, County Clare is or is not development and is or is not exempted development.

Particulars of Proposal

The particulars of the proposal and site are set out below:

Proposed Slatted Shed

- Height 5.55metres
- Proposed Floor Area 179.8 sqm
- Proposed Storage Volume 287.5 CBM
- Distance from road Greater than 10 metres
- Distance from dwellings Greater than 100 metres

Existing Cubicle Shed

- Floor Area 107.4sqm

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

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

It is proposed that the structure will be used as a slatted shed.

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

The use proposed is agricultural.

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 300 sqm threshold is not exceeded in this instance (subject to concurrent change of use of the existing cubicle shed to agricultural storage).

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.

Details of the proposed tanks are set out in the drawings submitted. The slatted tank must be in line with standards as set by the Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government.

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

The proposed development is in excess of 10 metres from the public road.

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

This height threshold is not exceeded in this instance.

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

The proposed development would not be within 100 metres of existing dwellings.

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

Standard agricultural cladding proposed.

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

The floor area of the existing shed is 107.4sqm.

- 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.*

The proposed use is agricultural storage.

- 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.

The 900sqm threshold would not be exceeded.

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

The shed is in excess of 10 metres from the public road.

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

Not applicable.

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.

The proposed development would not be within 100 metres of existing dwellings.

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

Not applicable.

Article 9 of the Planning and Development Regulations 2001, as amended

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

(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

Not applicable.

(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,

Not applicable.

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

Site is served by an existing agricultural access point.

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

Standard agricultural cladding proposed.

(iv) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

This site is located within a Settled Landscape. Having regard to the nature of the proposed development, that nature of the proposal site and its receiving environs, the views available towards the site I consider that development proposed would not interfere with the character of the landscape or views in the area.

(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,

Not applicable.

(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,

Not applicable.

(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,

The proposal site is located circa 3km from the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA. Having regard to the nature and scale of the

proposed development and the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site. An appropriate assessment screening report and determination is attached to this report.

(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 proposed development would not be likely 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,

Not applicable.

(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,

Not applicable.

(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,

Not applicable.

(xi) obstruct any public right of way,

Not applicable.

(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.

Not applicable.

Conclusion

Having regard to the above it is considered that the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea Kildysert, County Clare constitutes both 'works' and 'development'. However regard has also been had to Class 6 and Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended and the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea Kildysert, County Clare is development and is exempted development.

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea Kildysert, County Clare, 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, 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
- (c) Class 6 and Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on 21st February 2024.

And whereas Clare County Council (Planning Authority) has concluded:

- (a) the development of the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea Kildysert, County Clare, constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "*development*" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development of the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea Kildysert, County Clare, is exempted development having regard to Class 6 and Class 9 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority) hereby decides that the construction of a livestock slatted unit, and the change of use of an existing livestock cubicle shed to agricultural storage use at Derrylea Kildysert, County Clare, is development and is exempted development.


Executive Planner
Date: 06th March 2024


Senior Executive Planner
Date: 06/03/24 .

Clare County Council Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

Table 1: Project Details

Planning File Reference	R24-17
Applicant Name	Clancy
Development Location	Derrylea, Kildysert, Co Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
Slatted shed & change of use of cubicle house to agricultural storage shed	

Table 2: Identification of European sites which may be impacted by the proposed development.

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

Table 2 (a): European Sites within 15km of Applicant Site

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Lower River Shannon SAC	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0] <i>Margaritifera margaritifera</i> (Freshwater Pearl)	3

¹ European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

² European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
	Mussel) [1029] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355]	
River Shannon and River Fergus Estuaries SPA	Cormorant (Phalacrocorax carbo) [A017] Whooper Swan (Cygnus cygnus) [A038] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Wigeon (Anas penelope) [A050] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054] Shoveler (Anas clypeata) [A056] Scaup (Aythya marila) [A062] Ringed Plover (Charadrius hiaticula) [A137] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Lapwing (Vanellus vanellus) [A142] Knot (Calidris canutus) [A143] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Greenshank (Tringa nebularia) [A164] Black-headed Gull (Chroicocephalus ridibundus) [A179] Wetland and Waterbirds [A999]	3

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	Yes
2	Impacts on terrestrial habitats and species.	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	No
3	Impacts on designated marine habitats and species.	<i>Is the development located within marine or intertidal</i>	No

		<i>areas and within 5 km of a European site whose qualifying habitats or species include the following: . Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	
4	Impacts on birds in SPAs	<i>Is the development within 1km of a Special Protection Area</i>	No
5	Indirect effects	<i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No impacts envisaged

Appropriate Assessment Screening Determination	
Planning File Reference	R24-17
Proposed Development	Slatted shed & change of use of cubicle shed to agricultural storage
Development Location	Derrylea Kildysert
European sites within impact zone	As per report
Description of the project	
Slatted shed & change of use of cubicle shed to agricultural storage	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
Water quality & general disturbance	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Spreadlands at a significant remove from the designation. Compliance with European Communities (Code of Good Agricultural Practice for Protection of Waters) Regulations, 2014 required by applicants. No loss of foraging area and/or treelines etc.	
Documentation reviewed for making this statement	
NPWS website Plans and particulars received GIS mapping database	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s) ³	No
(b) There is no potential for significant effects to European Sites ³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out ⁴	No

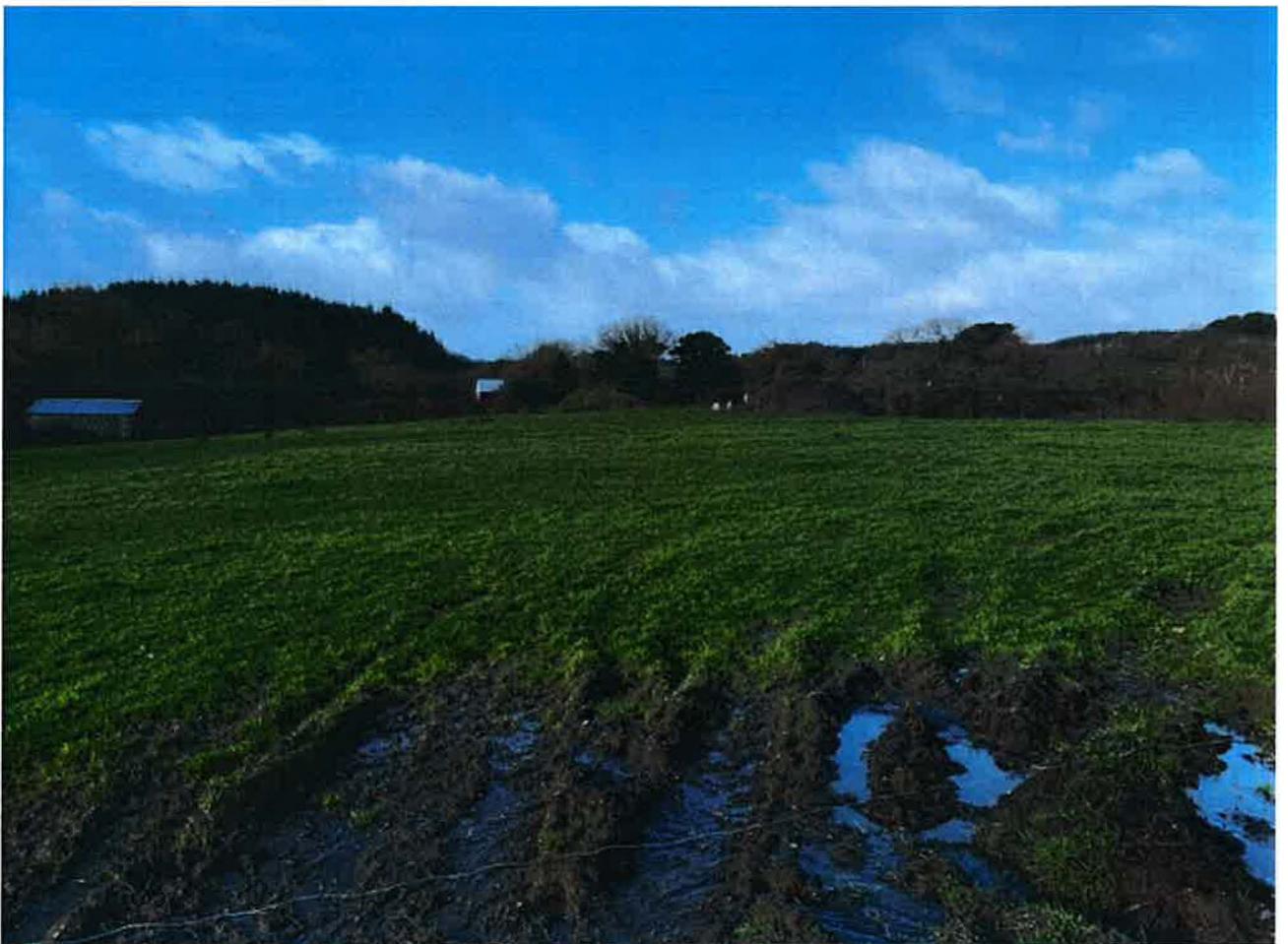
³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	No
Completed By	John O'Sullivan
Date	06 th March 2024

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

⁵ The proposed development must either by refused planning permission or alternatively an 'Appropriate Assessment' (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an 'appropriate assessment' should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.

















COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Paul Clancy
C/o Patrick Conlon
Clohanmore
Cree
Co. Clare
V15 HP77

21/02/2024

Section 5 referral Reference R24-17 – Paul Clancy

Is the construction of a livestock slatted unit at Derrylea, Kildysart development and if so, is it exempted development?

A Chara,

I refer to your application received on 21st February 2024 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 Stiúirthóireacht 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
Aras Contae an Chlair
New Road
Ennis
Co Clare



21/02/2024 11:54:34

Receipt No: : L1CASH/0/360845
***** REPRINT *****

PAUL CLANCY
DERRYLEA
KILDYSART
CO. CLARE

COMHAIRLE

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

CONTAE

Total : 80.00 EUR

AN CHLÁIR

Tendered :	
CREDIT CARDS	80.00

Change :	0.00
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Issued By : L1CASH - Noelette Barry
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No.0033043E

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
Website: www.clarecoco.ie



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL

R24-17

**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 providing the information required for a declaration to be made under Section 5 by the Planning Authority

**CLARE
COUNTY COUNCIL**

21 FEB 2024

**Received
Planning Section**

1. CORRESPONDENCE DETAILS.	
(a) Name and Address of person seeking the declaration	PAUL CLANCY DERRYLEA KILDYSART CO. CLARE Eircode: V95XC97
(b) Telephone No.:	- - -
(c) Email Address:	-
(d) Agent's Name and address:	PATRICK CONLON CLOHANMORE CREE CO CLARE EIRCODE: V15HP77

2. DETAILS REGARDING DECLARATION BEING SOUGHT

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

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

IS THE CONSTRUCTION OF A LIVESTOCK SLATTED UNIT AT DERRYLEA, KILDYSART DEVELOPMENT & 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.

PROPOSAL TO CONSTRUCT LIVESTOCK SLATTED UNIT FLOOR AREA UNDER 200 m². EXISTING ANIMAL HOUSING PLUS PROPOSED SLATTED UNIT WILL HAVE FLOOR AREA UNDER 300 m². ALL EXISTING ANIMAL HOUSING WILL NO LONGER BE USED FOR HOUSING ANIMALS AFTER DEVELOPMENT AND WILL BE CLASSED AS STORAGE BUILDINGS. PROPOSED DEVELOPMENT LOCATION IS OVER 130 m FROM PUBLIC ROAD AND UNDER 6m IN HEIGHT. NO DWELLINGS ARE LOCATED WITHIN 100 m. APPLICANT FARMS 69.24 HECTARES WITH SLURRY TO BE APPLIED AFTER DEVELOPMENT TO APPROX 85%. 15 SUCKLERS + 15 CALVES ARE CURRENT STOCK NUMBERS. CURRENTLY THERE ARE NO STORAGE FACILITIES FOR SLURRY OR EFFLUENT WITH CONSEQUENT RISK OF POLLUTION.

(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)

FARMYARD LOCATION MAP (1:2500) x 2 COPIES
 FARMYARD LAYOUT PLAN (1:500) x 2 COPIES
 SLATTED UNIT PLANS (1:100 + 1:200) x 2 COPIES
 LAND HOLDING MAP (1:5000) x 1 COPY.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	DERRYLEA MILDYSART CO CLARE
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	NO
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	OWNER FOLIO CE 13117F
(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>	N/A
(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>	NO
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	NO
(h) Date on which 'works' in question were completed/are likely to take place:	JUN 2024

SIGNED: Patrick Conboy
(Agent)

DATE: 20-02-2024

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

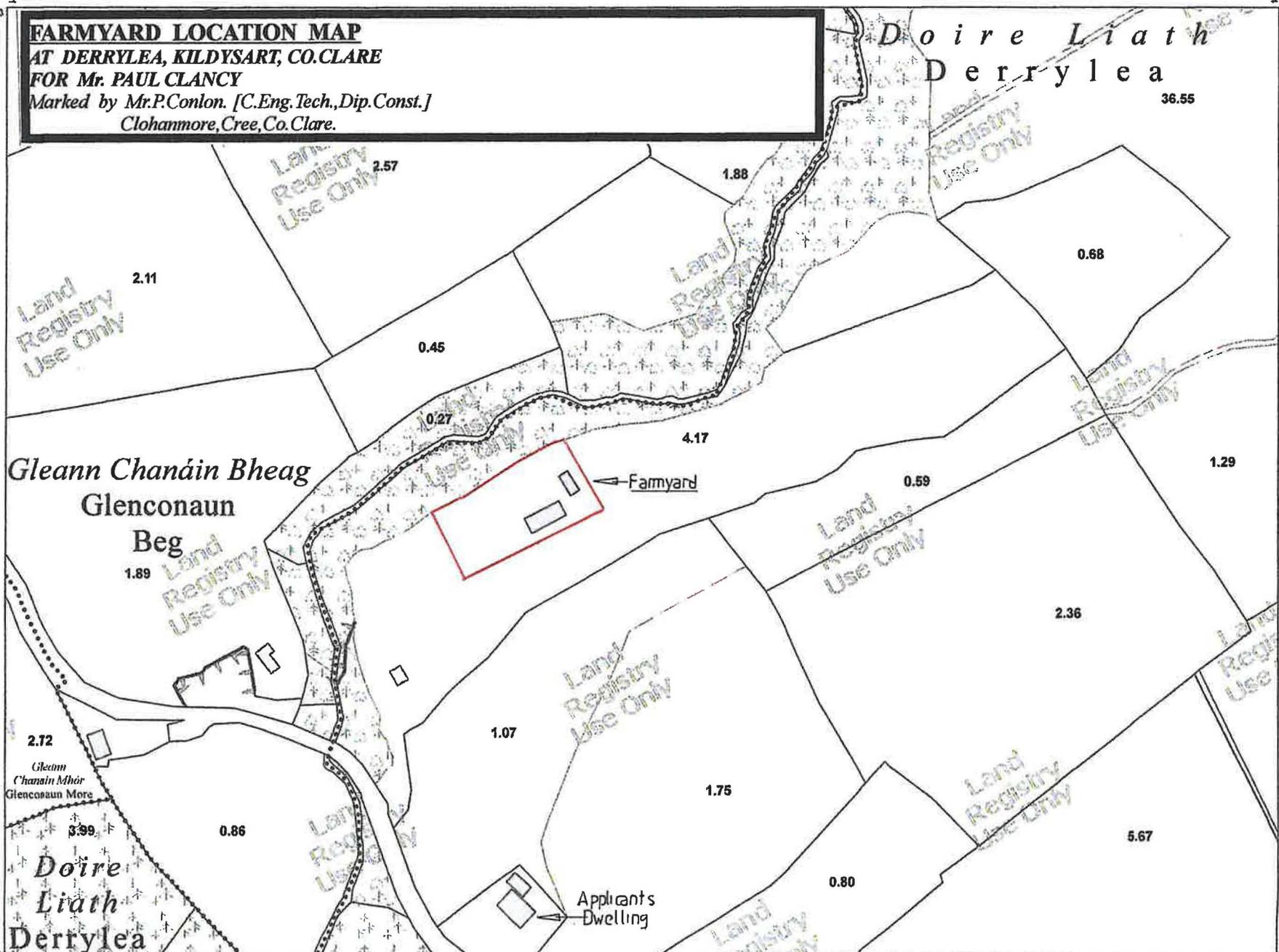
Date Received:	.....	Fee Paid:	.....
Date Acknowledged:	.....	Reference No.:	.....
Date Declaration made:	.....	CEO No.:	.....
Decision:	.....	

Land Registry Compliant Map



Tailte Éireann

FARMYARD LOCATION MAP
AT DERRYLEA, KILDYSART, CO. CLARE
FOR Mr. PAUL CLANCY
 Marked by Mr.P.Conlon. [C.Eng.Tech.,Dip.Const.]
 Clohanmore, Cree, Co.Clare.



CENTRE COORDINATES:
 ITM 524113,660818

PUBLISHED: 12/02/2024
ORDER NO.: 50382630_1
MAP SERIES: 1:5,000
MAP SHEETS: 4613, 4614

COMPILED AND PUBLISHED BY:
 Tailte Éireann,
 Phoenix Park,
 Dublin 8,
 Ireland.
 D08F6E4

www.tailte.ie

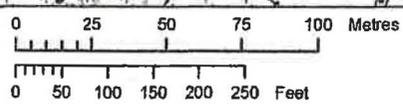
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OUTPUT SCALE: 1:2,500

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

LEGEND:
 To view the legend visit www.tailte.ie and search for 'Large Scale Legend'





**An Roinn Talmhaíochta,
Bia agus Mara**
Department of Agriculture,
Food and the Marine

For Basic Income Support for Sustainability,
Areas of Natural Constraint Scheme and
other Area-Based Schemes Purposes only

Year: 2022 Scale: 1:5000

Name: Paul Clancy

Address:
Derrylea
Kildysart
Co Clare

Townland Code: C16417
Townland Name: DERRYLEA

Parcel	Digitised	MEA*	EH*	Claimed
C16417021	0.16	0	0	0.00
C16417022	0.21	0	0	0.00
C16417023	0.04	0	0	0.00
C16417025	0.25	0	0	0.00
C16417038	5.56	5.56	5.56	5.56
C16417039	0.29	0	0	0.00
C16417040	50.46	48.31	49.87	47.54

Exclusions

Parcel	Excl	Area	Red%	Elig	Type
C16417038	X01	0.073	20%	0.06	Scrub
C16417040	X01	1.219	100%	0.00	Scrub
C16417040	X02	0.01	100%	0.00	Building
C16417040	X03	0.039	100%	0.00	Farm Road
C16417040	X04	0.25	100%	0.00	Stream
C16417040	X05	0.052	100%	0.00	River
C16417040	X06	0.067	100%	0.00	River
C16417040	X07	0.065	100%	0.01	River
C16417040	X08	0.11	100%	0.00	Scrub
C16417040	X09	0.066	100%	0.00	Stream
C16417040	X10	0.154	60%	0.06	Scrub
C16417040	X11	0.026	100%	0.00	Building
C16417040	X12	0.122	100%	0.00	Scrub
C16417040	X13	0.016	100%	0.00	Building
C16417040	X14	0.106	100%	0.00	Scrub

Townland Code: C16418
Townland Name: GLENCONAUN BEG

Parcel	Digitised	MEA*	EH*	Claimed
C16418038	12.27	11.08	12.27	11.08

Exclusions

Parcel	Excl	Area	Red%	Elig	Type
C16418038	X01	1.19	100%	0.00	Scrub

Ortho Used: Color Ortho Full Coverage

All areas displayed above are in hectares
*MEA and EH calculation available online via agfood.ie
09/05/2017 ©Bluesky International Ltd. 2017
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C 1 6 4 1 0 8 3



0.45

0.27

4.17

Existing Farmyard Structures

1.	Cubicle Shed 17.9 x 6.6m.
2.	Store 10 x 3.1m.
3.	Concrete Yard 24 x 12.5m.
4.	Holding Yard 8.7 x 6.5m.

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



PROPOSED
SLATED UNIT
P.F.F.L. 20-25
P.R.L. 25-64

140m.
To public rd.

FARMYARD LAYOUT PLAN

AT DERRYLEA, KILDYSART, CO. CLARE

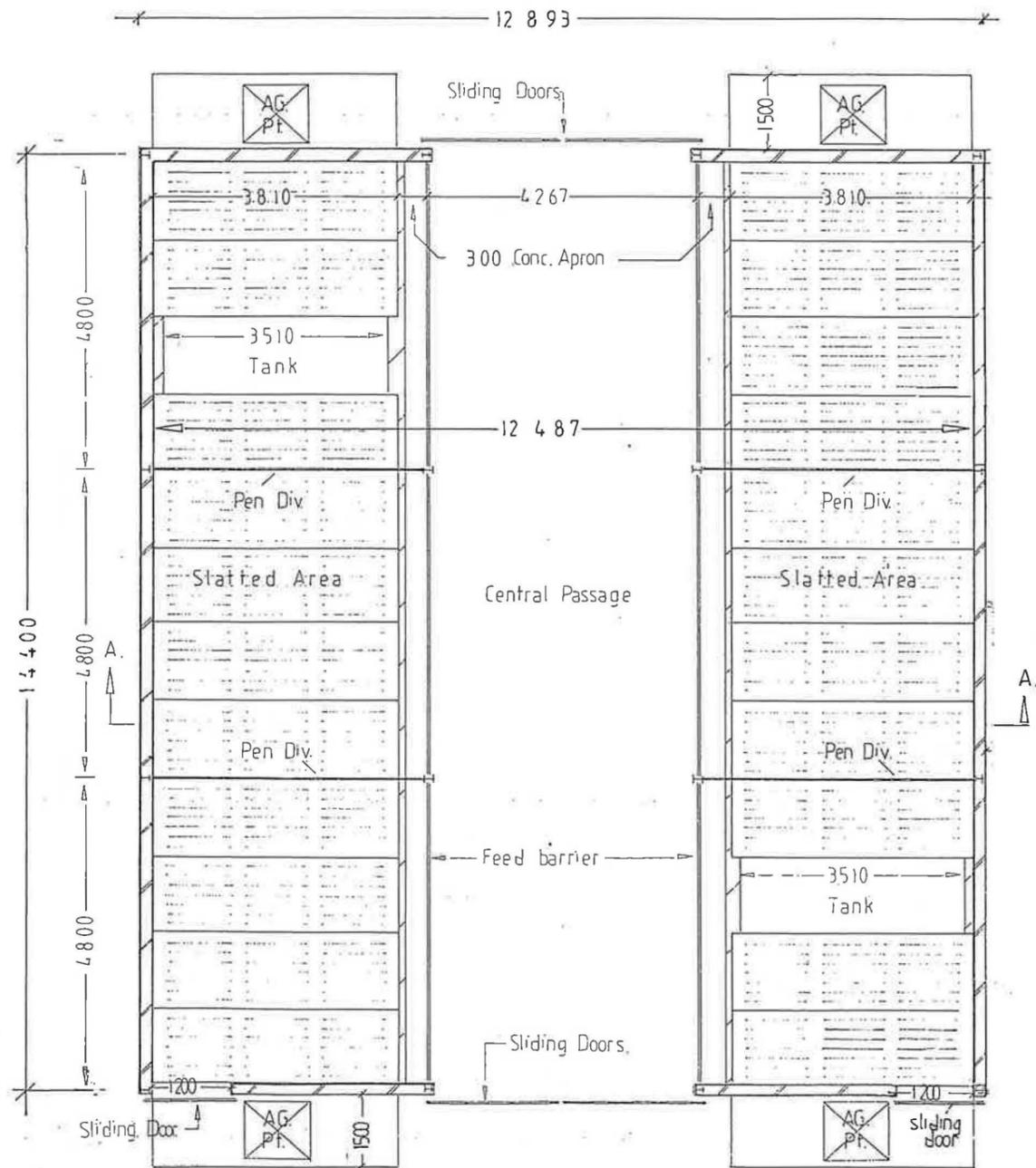
FOR Mr. PAUL CLANCY

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

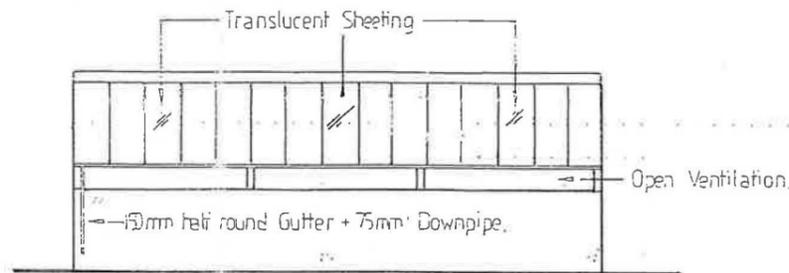
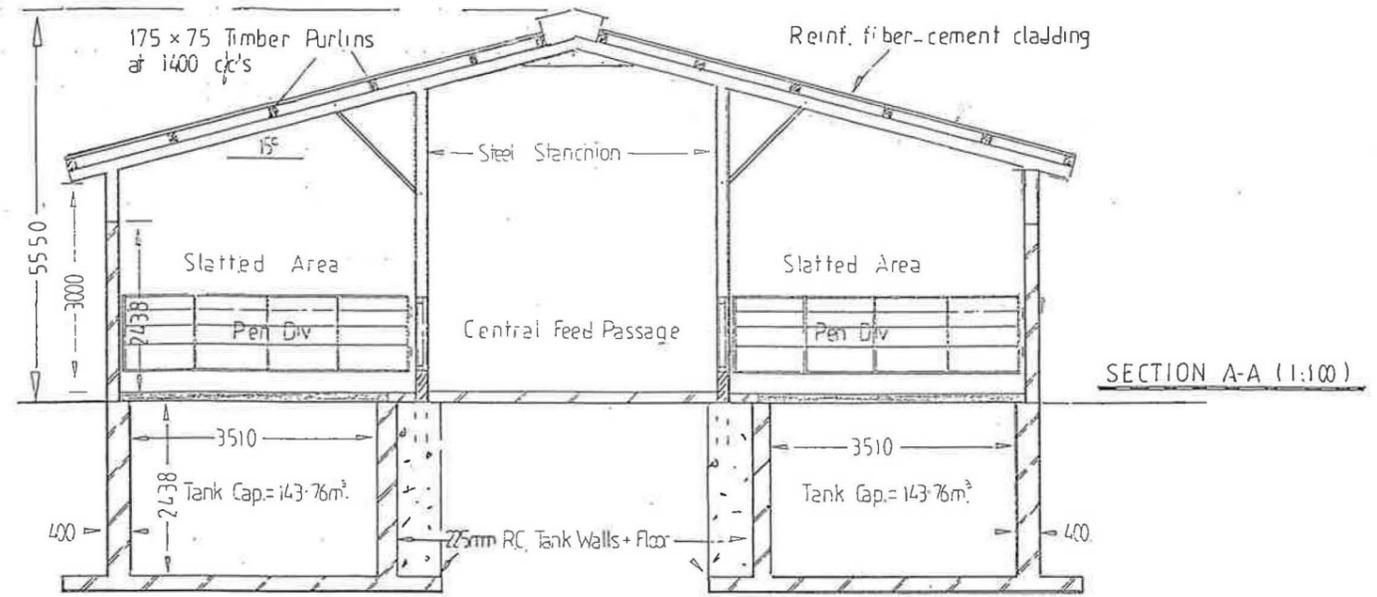
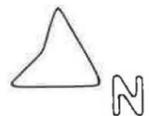
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DATE FEB. 2024

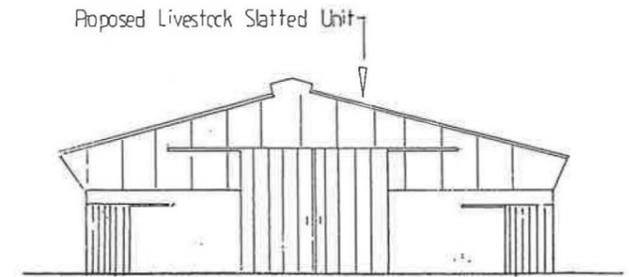
Tailte Eireann
Map: 4 613
4 614



PLAN (1:100) Floor Area 179.8m²



SIDE ELEVATIONS (1:200)



END ELEVATIONS (1:200)

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

PROPOSED SLATTED UNIT

AT DERRYLEA, KILDYSART, CO. CLARE.

FOR Mr. PAUL CLANCY

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

SCALE 1:100 +1:200

DATE FEB. 2024