



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Hometree CLG  
C/o Mary Kelleher, MKO  
Tuam Road  
Galway  
H91 VW84**

**27th May 2024**

**Section 5 referral Reference R24-43 – Hometree CLG**

**Whether the construction of 2 no. agricultural poly tunnels for use for the propagation of native Irish Trees is development and if so, is it exempted development?**

A Chara,

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

Mise, le meas

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

**An Roinn Pleanála  
An Stiúirtheacht 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



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

**Reference No.: R24-43**



**Comhairle Contae an Chláir  
Clare County Council**

**Section 5 referral Reference R24-43**

**Whether the construction of 2 no. agricultural poly tunnels for use for the propagation of native Irish Trees is development and if so, is it exempted development?**

**AND WHEREAS, Hometree CLG** has requested a declaration from Clare County Council on the said question.

**AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –**

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

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

- (a) The development consisting of 2 no. poly tunnels are “works” and “development” which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- (b) The said development falls within the scope of the Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 9.

**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 2 no agricultural polytunnels for use for the propagation of native Irish trees at Ardnacullia, Ennistymon Co Clare is **development** and **is exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



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

**27th May 2024**

**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: 83621  
Reference Number: R24-43  
Date Referral Received: 8th May 2024  
Name of Applicant: Hometree CLG  
Location of works in question: Ardnacullia Ennistymon Co.Clare

**Section 5 referral Reference R24-43 – Hometree CLG**

Whether the construction of 2 no. agricultural poly tunnels for use for the propagation of native Irish Trees is development and if so, is it exempted development?

**AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –**

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

**AND WHEREAS Clare County Council has concluded:**

- (a) The development consisting of 2 no. poly tunnels are "works" and "development" which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- (b) The said development falls within the scope of the Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 9.

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

**NOW THEREFORE** pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended)

and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the construction of 2 no agricultural poly tunnels for use for the propagation of native Irish trees at Ardnacullia, Ennistymon Co Clare Co. Clare is development and is exempted development

Signed:

  
\_\_\_\_\_  
GARETH RUANE  
SENIOR EXECUTIVE PLANNER 

Date:

27th May 2024

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

**FILE REF:** R 24/ 43 Home tree CLG

**APPLICANT(S):**

**REFERENCE:** Whether the construction of 2 no. agriculture poly tunnels for use for the propagation of native Irish trees is development and if so is it exempted development .

**LOCATION:** Ardnacullia Ennistymon Co. Clare

**DUE DATE:** 04/06/ 24

**Site Description.**

The subject site is located at Ardnacullia, Ennistymon

There are 5 structures on site,

- two existing poly tunnels which are the subject of the query ( total floor area 294 sq.m.),
- a reception/office building and a staff building ( timber structure) total floor area 91.21 sq.m. both of which are unauthorised
- an accommodation building ( bedroom) – unauthorised

**Planning History on site**

23/ 122 Hometree Charity Application sought permission to erect 2 No. horticultural poly-tunnels (280m<sup>2</sup>) previously erected as exempt development in accordance with Schedule 2, Part 3, Class 9 of the Planning and Development Regulations. The application was withdrawn

23/ 149 Eldertree Playschool. Permission granted to develop a soft surface vehicle drop-off point, soft surface parking for 3 no. staff vehicles, a bicycle/tool shed, a 3 cubicle toilet block, a 10m x 4m poly-tunnel and ancillary gravel walking tracks, all for educational use Deerpark West

**Ppi history**

Ppi 23/ 203- Applicant set out details of existing structures on site- intended to be retained together with details of proposed works that would require the benefit of planning permission .

**Details submitted with the application**

- Site location map scale 1:25 00 showing the subject site outlined in red and the landholding in blue .

- Completed application form.
- Site layout plan scale 1 : 200
- Total floor area of the two tunnels is 294. sq.m.
- Aerial photos showing partial area of holding in blue with the tunnels superimposed and outlined in red.

## **Background to Referral**

### **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*.

'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.*

'Development' are defined in Section 3 of the *Planning and Development Act 2000, as amended* as follows:

*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.*

#### 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.

*Part 3 Exempted Development Rural- Article 6*

**Class 9**

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.

Conditions and Limitations

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.

*Schedule 2, Article 6, Part 1 – Exempted Development General.*

Under Article 9 (1) of the same Regulations, *development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

*(a) if the carrying out of such development would –*

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
- (ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,*
- (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

*(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

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

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

*(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.”*

*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the*

*making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

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

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.*

## **Assessment**

### Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of 2 no. agricultural poly tunnels for use for the propagation of native Irish trees is development and is or is not exempted development.

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

### **Class 9**

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 shed is for the propagation of plants and is not for the housing of animals and as such falls under class 9.

### Conditions and Limitations

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.

**This is the case being for horticultural/ propagation use.**

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 total floor area is 294 sq.**

**There are two other structure on site which the applicant advises will be the subject of an application for retention the total floor area of which is 91 sq.m. While they are not poly tunnels structures which fall under class 9, they are used in connection with horticultural activity on site being a reception block and staff office.**

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

**The structure is greater than 10m the public road. ( being 116 to 128m distance from the nearest road)**

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

**The maximum height is 3.35 m to the apex of the curve of the tunnel and as such meets this requirement .**

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 structures are 104m from the nearest dwelling .**

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

**N/A. .**

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:

- (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

**N/A- No planning history**

- (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,*

**No alterations to the existing access point are proposed.**

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

**N/A.**

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

**N/A.**

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

***The site is within designated settled landscape which does not have views or prospects of special amenity value or special interest.***

- (v) *consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

**N/A This is not applicable in this instance.**

- (vi) *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,*

**N/A This is not applicable in this instance.**

(vii)

- a. *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,*

**N/A This is not applicable in this instance .**

- b. *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,*

**N/A**

- c. *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.”*

**This is not applicable in this instance as the subject site is not located in a NHA or p NHA.**

- (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,*

**N/A. The existing tunnels are not an extension, alteration , repair or renewal of an unauthorised structure or a structure the use of which is unauthorised. The other structures on site which are intended to be regularised are free standing and not physically connected to the poly tunnels although on the same holding.**

- (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,*

**This is not applicable in this instance.**

- (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,*

**This is not applicable in this instance.**

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

**This is not applicable in this instance.**

- (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.*

**This is not applicable in this instance.**

## **Conclusion**

Having regard to the above it is considered that the proposed development constitutes both 'works' and 'development'.

Regard has been had to Class 9, of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended and Article 9 as amended of the same Regulations.

## **Recommendation**

The following questions have been referred to the Planning Authority:

**Whether the construction of 2 no agricultural poly tunnels for use for the propagation of native Irish trees at Ardnacullia, Ennistymon Co Clare is development and if so , it is exempted development ,.**

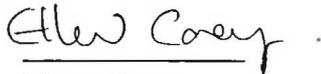
**The Planning Authority in considering this referral had regard to:**

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

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

- a) the development consisting of 2 no. poly tunnels are “works” and “development” which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- b) The said development falls within the scope of the Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 9.

**Now therefore Clare County Council (Planning Authority), hereby decides that construction of 2 no agricultural poly tunnels for use for the propagation of native Irish trees at Ardnacullia, Ennistymon Co Clare Co. Clare is development and is exempted development.**



**Ellen Carey  
Executive Planner**

**Date:** 24/05/24.



**Gareth Ruane  
Senior Executive Planner**

**Date:** 24/05/24.

Appropriate Assessment & Determination

<b>STEP 1. Description of the project/proposal and local site characteristics:</b>	
<b>(a) File Reference No:</b>	Section 5 R24/ 43
<b>(b) Brief description of the project or plan:</b>	Poly tunnels by 2
<b>(c) Brief description of site characteristics:</b>	Partially use for horticulture
<b>(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW</b>	None
<b>(e) Response to consultation:</b>	None

<b>STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.</b>				
<b>European Site (code)</b>	<b>List of Qualifying Interest/Special Conservation Interest<sup>1</sup></b>	<b>Distance from proposed development<sup>2</sup> (km)</b>	<b>Connections (Source-Pathway-Receptor)</b>	<b>Considered further in screening Y/N</b>
Inagh River estuary SAC	<ul style="list-style-type: none"> <li>Annex I Habitats • Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</li> <li>• Mediterranean salt meadows Juncetalia maritima [1410]</li> <li>• Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</li> <li>• *Fixed coastal</li> </ul>	550m from the northern boundary of the site	None	No

dunes along the shoreline with herbaceous vegetation (grey dunes) [2130]				

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

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

<b>STEP 3. Assessment of Likely Significant Effects</b>	
<b>(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:</b>	
<b>Impacts:</b>	<b>Possible Significance of Impacts: (duration/magnitude etc.)</b>
Construction phase e.g. <ul style="list-style-type: none"> <li>• Vegetation clearance</li> <li>• Demolition</li> <li>• Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>• Dust, noise, vibration</li> <li>• Lighting disturbance</li> <li>• Impact on groundwater/dewatering</li> <li>• Storage of excavated/construction materials</li> <li>• Access to site</li> <li>• Pests</li> </ul>	none
Operational phase e.g.	none

<ul style="list-style-type: none"> <li>• Direct emission to air and water</li> <li>• Surface water runoff containing contaminant or sediment</li> <li>• Lighting disturbance</li> <li>• Noise/vibration</li> <li>• Changes to water/groundwater due to drainage or abstraction</li> <li>• Presence of people, vehicles and activities</li> <li>• Physical presence of structures (e.g. collision risks)</li> <li>• Potential for accidents or incidents</li> </ul>	
In-combination/Other	none

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

**(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?**

Yes  No

#### Step 4. Screening Determination Statement

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

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

Having regard to the separation distance between the subject site and nearest SAC (540m), the nature of the existing poly tunnels which are dry buildings with no effluent arising and the absence of hydrological connection between the subject site and the European site, the poly tunnels are not likely to have significant effects on European site(s) in view of its conservation objectives

**Conclusion: The proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives.**

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) <b>Significant effects</b> are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission

Signature and Date of  
Recommending Officer:

24/04/24

Ellen Carey.  
**Name: Ellen Carey E.P.**

Signature and Date of the  
Decision Maker:



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

Hometree CLG  
C/o Mary Kelleher, MKO  
Tuam Road  
Galway  
H91 VW84

10/05/2024

**Section 5 referral Reference R24-43 – Hometree CLG**

Whether the construction of 2 no. agricultural poly tunnels for use for the propagation of native Irish Trees is development and if so, is it exempted development?

A Chara,

I refer to your application received on 8th May 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 Stiúthóireacht Forbairt Gheilleagrach**

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department**  
**Economic Development Directorate**

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2





Planning Department,  
Aras Contae and Chláir,  
New Road,  
Ennis,  
Co. Clare  
V95DXP2



Our ref: 211216  
Your ref: n/a

Date: 8<sup>th</sup> May 2024

**Re: Request for Declaration under Section 5 of the Planning and Development Act 2000 (as amended) related to development at Hometree, Ardnacullia, Ennistymon, Co. Clare.**

Dear Sir/Madam,

On behalf of our client, Hometree CLG (Reg. Charity No. 20206254), with an address at Deerpark, Ardnacullia, Ennistymon, Co. Clare, we wish to make a request for a declaration under the provisions of Section 5 of the Planning and Development Act 2000 (as amended) regarding the development of 2 no. agricultural polytunnels (294 sq. m) located at the subject site. The use of the subject structures is for the purpose of forestry only. Seeds collected in Ireland are propagated under the cover of the tunnels for c. 12 months before being transferred outdoors to nursery beds on site. There are no delivery or direct sales associated with the subject structures.

The question which is the subject of this request for a declaration of exemption is as follows:

*Whether the construction of 2 no. agricultural polytunnels (total floor area 294 sq.m) for use in the propagation of native Irish trees is exempted development under the provisions of the Planning and Development Regulations 2001 (as amended).*

#### **Applicant**

Hometree CLG is a registered Irish Charity with a mission to encouraging biodiversity and land regeneration in Ireland. Hometree's core activity at the subject site relates to forestry as a tree nursery for the propagation of native Irish trees which are later planted at forestry sites throughout Ireland.

#### **Exempted Development**

Developments which are exempted and for which planning permission is not required are set out in the Planning and Development Regulations 2002 (as amended) (*the Regulations*). Schedule 2, Part 3 of

the Regulations set out development related to Rural Development and is applicable to the subject development. Class 9 relates to:

*'Work 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.*

Column 2 of Schedule 2 sets out conditions and limitations for which the development may not be exempt. These are set out in Table 1 below and where relevant, information relation to the subject development is included.

Table 1 Class 9, Conditions and Limitations on exempted development

Condition and Limitations (Class 9, Column 2)	Subject Development
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 subject development is used for the propagation of native Irish trees (forestry). Seeds are germinated and grown within the tunnel structures for 1 no. year before being removed from the tunnels and later planted in forestry sites throughout Ireland. There are no deliveries or direct sales associated with the structures.
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 subject structures are 294 sq. m. there are 2 no. structures within the same <u>complex which will be subject to an application for retention to be made to Clare County Council in the coming weeks.</u> These structures are used for activity related to the horticultural activity on site ( <u>site office and reception</u> ) and the total floor area of these structures is 91.21 sq. m.
3. No such structure shall be situated within 10 metres of any public road.	The subject structures are further than 10m from the public road (refer to <i>Sheet 2001, 'S5 Site Layout Plan'</i> enclosed with this request).
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.	The subject structures are less than 8m in height (maximum height 3.35m) (refer to <i>Sheet 2002, S5 Existing Polytunnels</i> enclosed with this request).
5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing	The subject structures are 1more than 00m from the nearest house (refer to <i>Sheet 2001, 'S5 Site Layout Plan'</i> enclosed with this request).

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+353 (0)91 735 611 | mkoireland.ie | info@mkoireland.ie

Dublin - MKO, 9C Beckett Way, Park West Business Park, Dublin, D12 XN9W  
McCarthy Keville O'Sullivan Ltd t/a MKO, Registered in Ireland No: 462657, VAT No: IE9693052R

<p>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.</p>	
<p>6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</p>	<p>There is no unpainted sheet metal used for roofing or on the external finish of the structure (refer to Image 1, 2 and 3 enclosed with this application).</p>

It is our understanding that, on the basis of the facts set out above that the subject structures are exempt within the provisions of the Planning and Development Act 2000 (as amended) and Planning and Development Regulations 2001 (as amended).

#### **Fee Payment**

Subject to Section 157 of the Planning and Development Regulations 2001 (as amended), where the Planning Authority is satisfied that the application consists of or is related to work carried out on behalf of an organisation which is not for profit or gain, the fee shall not be payable when making such application. The Applicant is a registered charity (Ch. Reg. Number 20206254) whose activities are not related to profit or gain. For this reason, the applicant requests the Planning Authority consider whether the application is exempt from the applicable fee.

Under the provisions of Section 5 (2)(a) the planning authority shall issue the declaration on the question that has arisen and the main reasons and considerations on which its division is based within 4 weeks of the receipt of this request. Should the Planning Authority require any further information please do not hesitate to get in touch.

Yours sincerely,



**Mary Kelleher**  
**Project Planner, MKO**

#### **Enclosed**

- > Completed Application form (Form P07);
- > Cover Letter;

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- > Site Location Map, prepared by Studio Saol (Scale: 1:2500);
- > Site Layout, Prepared by Studio Saol (scale: 1:2000);
- > Existing Plans, Section, Elevation, prepared by Studio Saol (scale 1:200);
- > Site Photos.

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**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.*

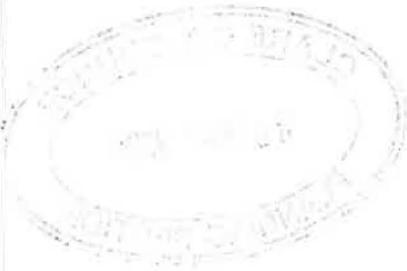
Sample Question: *Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?*

Whether the construction of 2 no. agricultural poly tunnels for used for the propagation of native Irish Trees is exempted development under the provisions of the Planning and Development Regulations 2001 (as amended).

- (b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question

On behalf of our client, Hometree CLG (Reg. Charity No. 20206254), with an address at Deerpark, Ardnacullia, Ennistymon, Co. Clare, we wish to make a request for a declaration under the provisions of Section 5 of the Planning and Development Act 2000 (as amended) regarding the development of 2 no. agricultural polytunnels (294 sq. m) located at the subject site. The use of the subject structures is for the purpose of forestry only. Seeds collected in Ireland are propagated under the cover of the tunnels for c. 12 months before being transferred outdoors to nursery beds on site. There are no delivery or direct sales associated with the subject structures.

Please Refer to the Cover Letter enclosed with this application which sets out in detail the reasons the subject structures are, in the opinion of the Applicant exempted development.



- (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)*

1. Site Location Map, prepared by Studio Saol (Scale: 1:2500);
2. Site Layout, Prepared by Studio Saol (scale: 1:2000);
3. Existing Plans, Section, Elevation, prepared by Studio Saol (scale 1:200);
4. Site Photos

<b>3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT</b>	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Hometree Charity, Deerpark, Ardncullia, Ennistymon, 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
(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)?:	n/a
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	n/a
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	Pl. Ref. 23122 - Withdrawn
(h) Date on which 'works' in question were completed/are likely to take place:	1 no. tunnel erected in 2021 1 no. tunnel erected in 2023

SIGNED:   
Mary Kelleher (Agent, MKO)

DATE: 08.05.2024

**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: .....	

# Planning Pack Map



**Tailte Éireann**

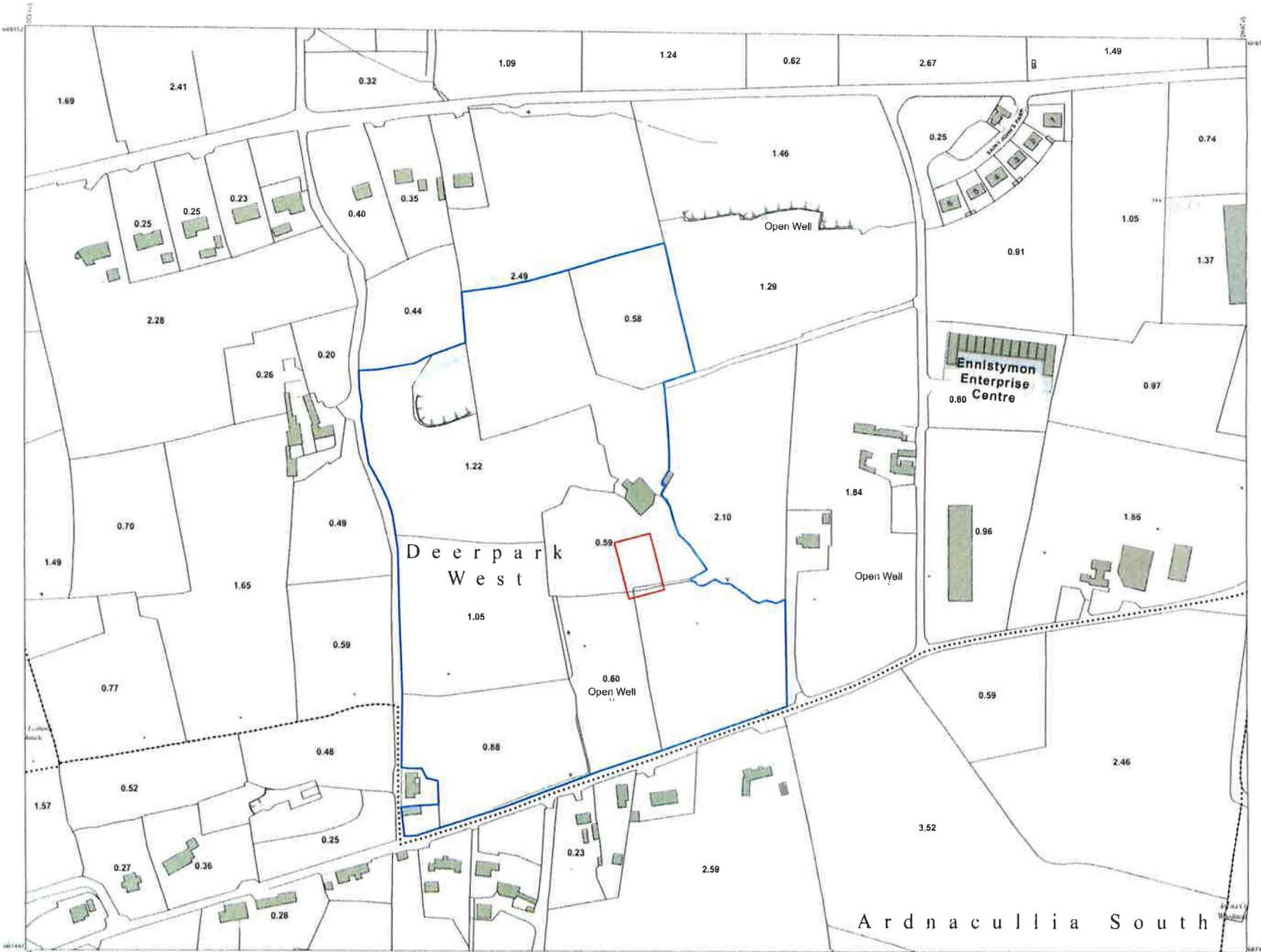
**CENTRE COORDINATES:**  
ITM 512245.687805

**PUBLISHED:**  
01/11/2023

**ORDER NO.:**  
50365768\_1

**MAP SERIES:**  
1:2,500  
1:2,500

**MAP SHEETS:**  
4083-D  
4084-C



- Applicant Land Holding
- Applicant Site Boundary



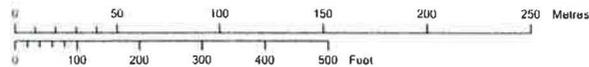
**Studio Saol**

Limerick, Ireland | info@studio-saol.com

- Client: Hónorau Charú
- Location: Deerpark, Ardmaculla, Ennistymon, Co. Clon.

- Project: Ennistymon CCS
- Map: SA Site Location Map

- Scale: 2000
- Date: 01/11/2023
- Version: 1.0



**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

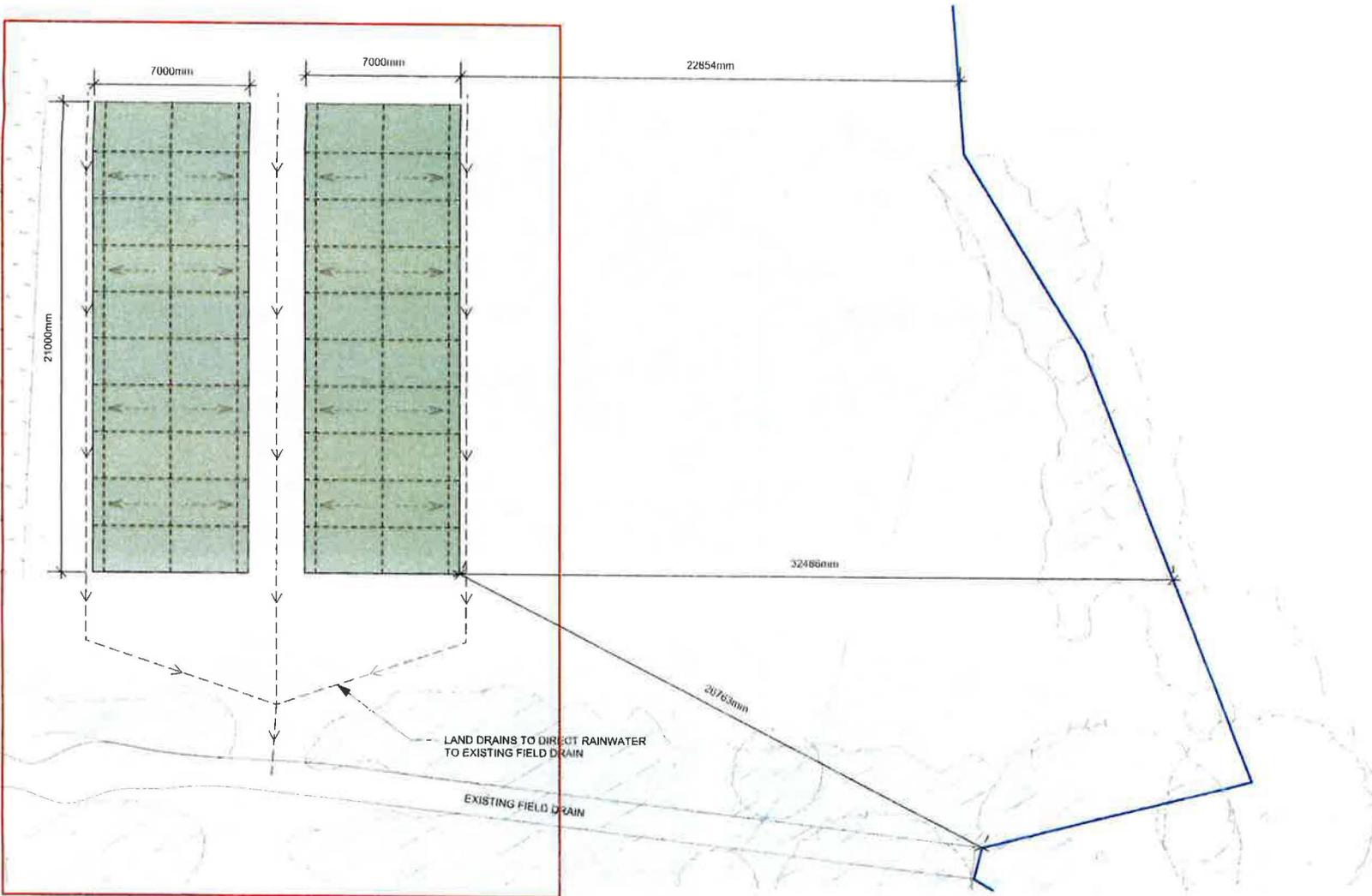
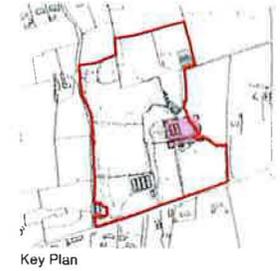
**LEGEND:**  
To view the legend visit [www.os.ie](http://www.os.ie) and search for 'Large Scale Legend'



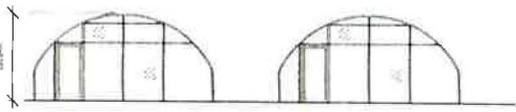


Drawing legend

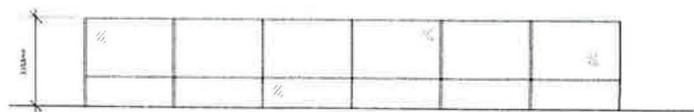
- Applicant Land Holding
- Applicant Site Boundary



1 Plan  
Scale 1:200



2 Polytunnels Front Elevations  
Scale 1:200



3 Polytunnels Side Elevations  
Scale 1:200

# Studio Saol

Limnch k. Inoand j info@studiosaol.com

- Hampton Charity
- Designark Architecture Employment Co-Operative

— Hampton U3 U

— SO Existing Polytunnels

— 2002

— U/05/2024

— 1:200

— 1:200

Drawing legend

— Applicant Land Holding

— Applicant Site Boundary



IMAGE 01: 2NO AGRICULTURAL POLYTUNNELS



IMAGE 02: LAND DRAIN DIRECTING RAINWATER TO EXISTING FIELD DRAIN



IMAGE 03: AERIAL SITE IMAGE SHOWING LOCATION OF POLYTUNNELS IN RELATION TO NEIGHBOURING STRUCTURES

Studio Saol

Umair & Rohan | info@studio-saol.com

— Hualachra Charity

— Umpark Architects,  
Enniscorthy, Co. Wex

— Harcourt CCU

— St. Brigid's

— 2023 — St. Brigid's

— 01/09/2024 — St. Brigid's

— N/A — St. Brigid's

— 10/09/2024 — St. Brigid's