



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**John Fitzgerald
C/o Gerry Malone
Crossbeg
Cross
Kilrush
Co. Clare
V15 VA07**

16th April 2025

Section 5 referral Reference R25-20 – John Fitzgerald

Is the construction of stables and a ring at Kilfearagh, Kilkee, Co. Clare development and if so, is it exempted development?

A Chara,

I refer to your application received on 21st March 2025 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 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

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No:

85286

Reference Number:

R25-20

Date Referral Received:

21st March 2025

Name of Applicant:

John Fitzgerald

Location of works in question:

Kilfearagh, Kilkee, Co. Clare

Section 5 referral Reference R25-20 – John Fitzgerald

Is the construction of stables and a ring at Kilfearagh, Kilkee, Co. Clare 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 10 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 the 21st March 2025.

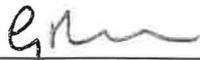
AND WHEREAS Clare County Council has concluded:

- (a) The development of the construction of a stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, 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 stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, County Clare, is exempted development having regard to Class 6 and Class 10 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

ORDER: Whereas by Chief Executive's Order No. HR 46 dated 1st January 2025, Carmel Kirby, Interim Chief Executive for Clare County Council, did, pursuant to the powers conferred on her by Section 154 of the Local Government Act 2001, delegate to Garreth 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, Garreth Ruane, Senior Executive Planner, hereby declare that the construction of a stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, Co. Clare is considered development which is exempted development.

Signed:



GARRETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

16th April 2025

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

Reference No.: R25-20



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R25-20

Is the construction of stables and a ring at Kilfearagh, Kilkee, Co. Clare development and if so, is it exempted development?

AND WHEREAS, John Fitzgerald 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 10 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 the 21st March 2025.

And whereas Clare County Council has concluded:

- (a) The development of the construction of a stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, 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 stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, County Clare, is exempted development having regard to Class 6 and Class 10 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 stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, Co. Clare **constitutes development** which 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

16th April 2025

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

FILE REF:	R25-20
APPLICANT(S):	John Fitzgerald
REFERENCE:	Whether the construction of a stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, County Clare is not development and is or is not exempted development.
LOCATION:	Kilfearagh, Kilkee, County Clare
DUE DATE:	17 th April 2025

Site Location

The proposal site is located in the rural townland of Kilfearagh to the south of Kilkee. It is to the south of the LS6044 local secondary road and comprises of an agricultural field the levels of which gradually fall away from the road. The roadside boundary comprises of a field boundary ditch and there are long range views available from the site to the south. The field is served by an existing agricultural access point.

Recent Planning History

Onsite

None.

Environs

None.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by John Fitzgerald who is seeking a Section 5 Declaration as to whether the construction of a stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, County Clare is not development and is or is not exempted development.

The stables would have an overall height of between 4.7 and 5.7 metres and a floor area of 182sqm. It would be a minimum of 10 metres from the road. The horse ring would be located to the south of the stables. The tank and pit would be to the east.

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 10

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

- 1. No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*
- 2. No such area shall be used for the staging of public events.*
- 3. No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*
- 4. The height of any such structure shall not exceed 2 metres.*

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 stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, County Clare 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 Stables

- Height Between 4.7 and 5.7 metres

- Proposed Floor Area 182 sqm
- Proposed Storage Volume 200 litres
- Distance from road Greater than 100 metres
- Distance from 3rd party dwellings Greater than 100 metres

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 for the housing of horses

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 would not be exceeded in this instance.

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 manure pit and effluent storage 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 any existing 3rd party dwellings.

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

Standard painted agricultural cladding proposed.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 10

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

The proposed ring is for the exercise of horses.

1. *No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*

The proposed ring is for the exercise of horses.

2. *No such area shall be used for the staging of public events.*

This is not proposed.

3. *No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*

Compliance with this requirement is achieved.

4. *The height of any such structure shall not exceed 2 metres.*

Compliance with this requirement is achieved.

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, and 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 2.5km from the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA, and 2.6km from the Kilkee Reefs SAC. Having regard to the nature and scale of the proposed development, and on the basis of the available information I consider that the proposed development would not 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.

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of a stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, County Clare 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 10 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 the 21st March 2025.

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

- (a) the development of the construction of a stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, 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 stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, County Clare, is exempted development having regard to Class 6 and Class 10 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 stables, a horse ring, a manure pit and an associated effluent tank at Kilfearagh, Kilkee, County Clare, is development and is exempted development.


Executive Planner
Date: 11th April 2025


Senior Executive Planner
Date: 16/04/25.

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	R25-20
Applicant Name	Fitzgerald
Development Location	Kilfearagh, Kilkee, 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

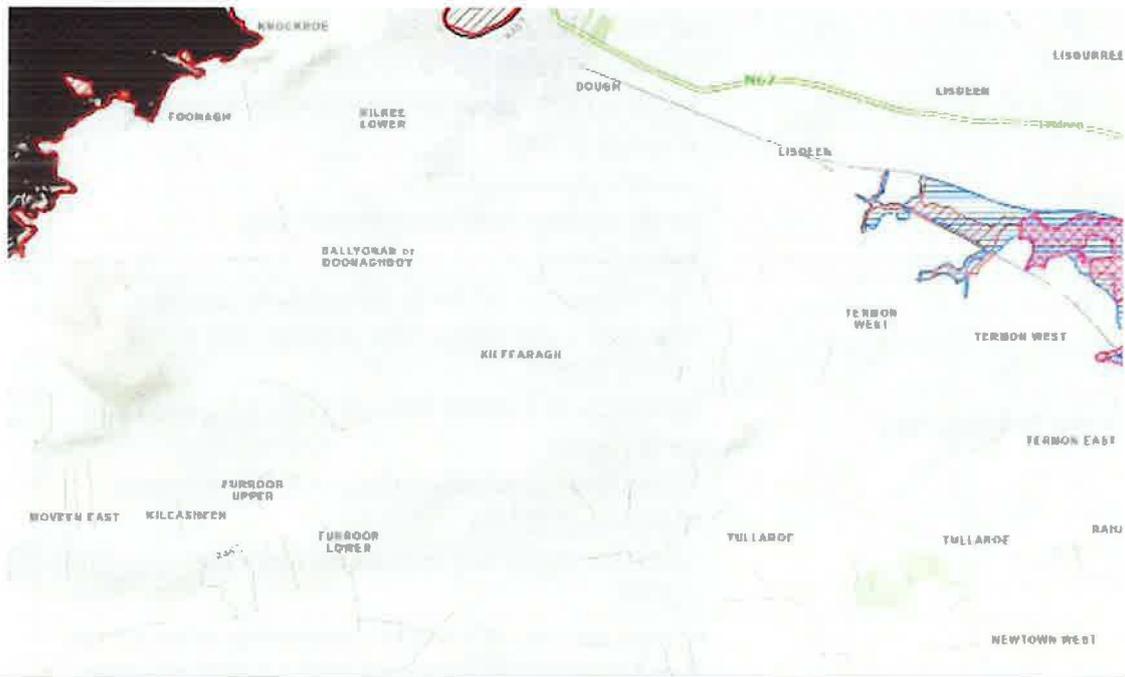


Table 2: Identification of European sites which may be impacted by the proposed development.

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>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculion 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</i>	2.5

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)
	albae) [91E0] Margaritifera margaritifera (Freshwater Pearl 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 & 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]	2.5
Kilkee Reefs SAC	Large shallow inlets and bays [1160] Reefs [1170] Submerged or partially submerged sea caves [8330]	2.6

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 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>	No
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	R25-20
Proposed Development	Stables, horse ring, manure pit, effluent storage tank
Development Location	Kilfearagh
European sites within impact zone	As per report
Description of the project	
Stables, horse ring, manure pit, effluent storage tank	
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?	
Not significant. Small scale development. Significant remove from the designations with no strong direct connections to same.	
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.

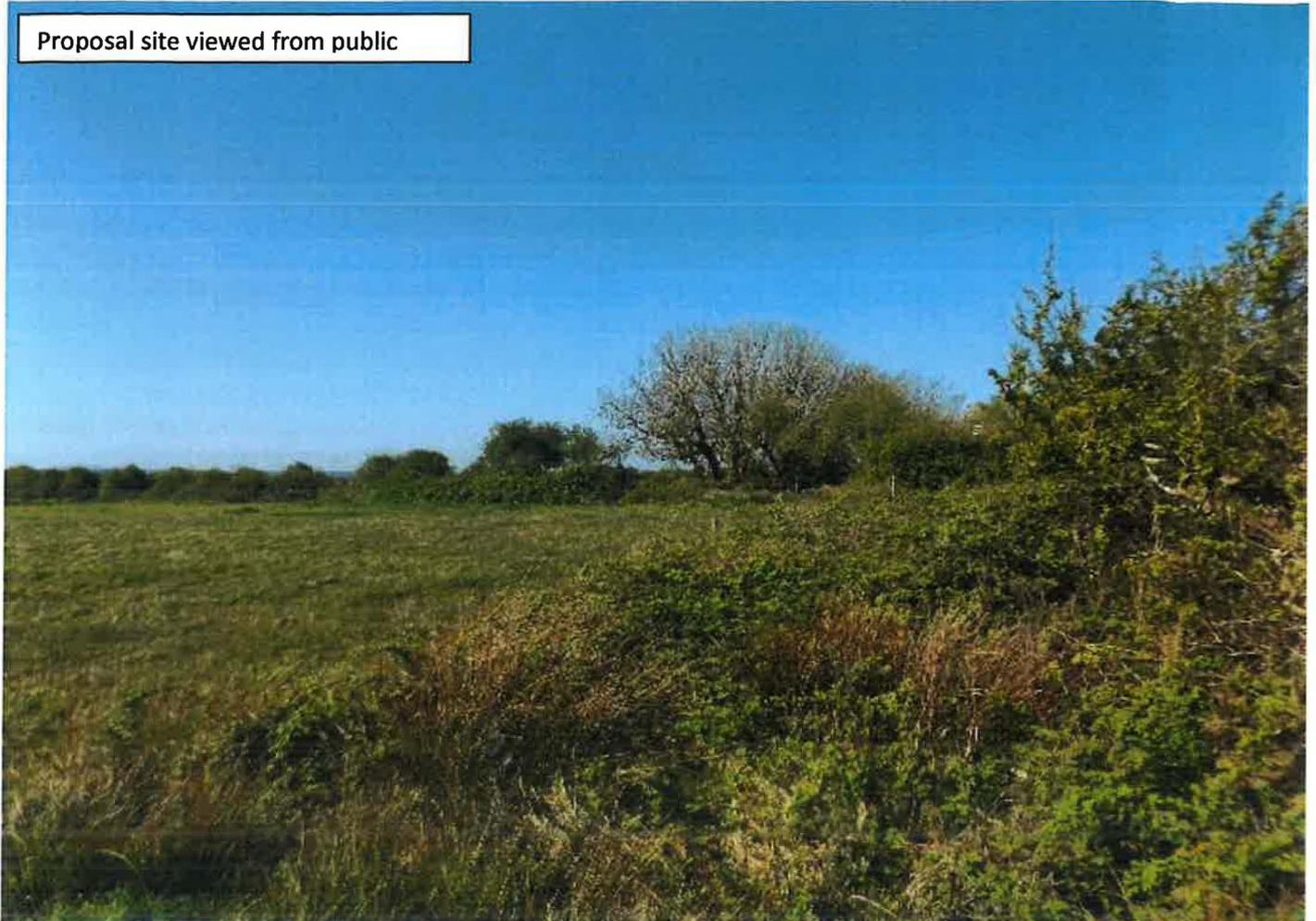
⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate 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

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

(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	11 th April 2025

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.

Proposal site viewed from public











COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

John Fitzgerald
C/o Gerry Malone
Crossbeg
Cross
Kilrush
Co. Clare
V15 VA07

21/03/2025

Section 5 referral Reference R25-20 – John Fitzgerald

Is the construction of stables and a ring at Kilfearagh, Kilkee, Co. Clare development and if so, is it exempted development?

A Chara,

I refer to your application received on 21st March 2025 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 Stiúrtóireacht 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



CONTAE

Clare County Council
Aras Contae an Chláir
New Road
Ennis
Co Clare

AN CHLÁIR

21/03/2025 11:28.26

Receipt No : L1CASH/0/376775
***** REPRINT *****

JOHN FITZGERALD
C/O GERRY MALONE
CROSSBEG, CROSS
KILRUSH, CO. CLARE



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

COMHAIRLE

Total : 80.00 EUR

CONTAE

Tendered :
Cash 80.00

AN CHLÁIR

Change : 0.00

Issued By : L1Cash - Geraldine Melican
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) 6821636
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



R25-20

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

1. CORRESPONDENCE DETAILS.	
(a) Name and Address of person seeking the declaration	<p>JOHN FITZGERAUD</p> <p>KILFEARAGH, KILKEE, Co. CLARE.</p> <p>Eircode: V15 FX26</p>
(b) Telephone No.:	-
(c) Email Address:	-
(d) Agent's Name and address: ALL CORRESPONDENCES PLEASE !	<p>GERRY MALONE</p> <p>CROSSBEG, CROSS, KILRUSH, Co. CLARE.</p> <p>EIRCODE: V15 VA07</p>

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 STABLES & RING AT KILFEARAGH, KILKEE,
Co. CLARE DEVELOPMENT AND 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.

IS THE ABOVE MENTIONED STABLES & RING (PLUS PIT & TANK) FOR HORSES
EXEMPT FROM PLANNING UNDER THE FOLLOWING LEGISLATION
SI 600 OF PLANNING & DEVELOPMENT REGULATIONS 2001, SCHEDULE 2
PART 3 (EXEMPT DEVELOPMENT - RURAL) CLASS 6 AGRICULTURAL
STRUCTURES (CONDITIONS & LIMITATIONS 1 - 7 INCLUSIVELY) & CLASS 10
(CONDITIONS & LIMITATIONS 1 - 4 INCLUSIVELY).

- (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)

ENCLOSED PLANS @ 1:100 & 1:200 SCALE PLUS FOLIO MAP SCALE 1:2500
SITE MAP SCALE 1:1250

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	<u>KILFEARAGH, KILKEE, Co. CLARE</u> _____ _____ _____
(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?	<u>NO</u> _____ _____
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<u>APPLICANT IS HUSBAND OF LANDOWNER.</u> _____
(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>	<u>PHILOMENA FITZGERALD</u> <u>KILFEARAGH, KILKEE, Co. CLARE</u> <u>V15 FX 26</u> _____
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<u>NO</u>
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	<u>NO</u>
(g) Were there previous planning application/s on this site? If so please supply details:	<u>NO</u>
(h) Date on which 'works' in question were completed/are likely to take place:	<u>2025</u>

SIGNED: 

DATE: 20-3-2025.

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:	.....	

DWELLING.

SHEDS.

APPLICANTS FAMILY OWNED HOME.

230m

PROPOSED STABLES
(COLOURED YELLOW)

EXISTING SHEDS.

10m
MIN.

PROPOSED SOILED WATER TANK,
2000 LITRES PLUS MANURE PIT.
(COLOURED BLUE).

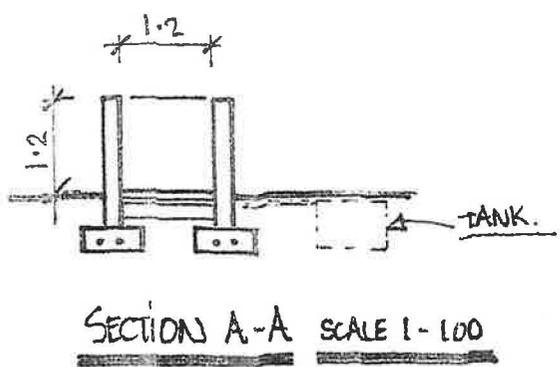
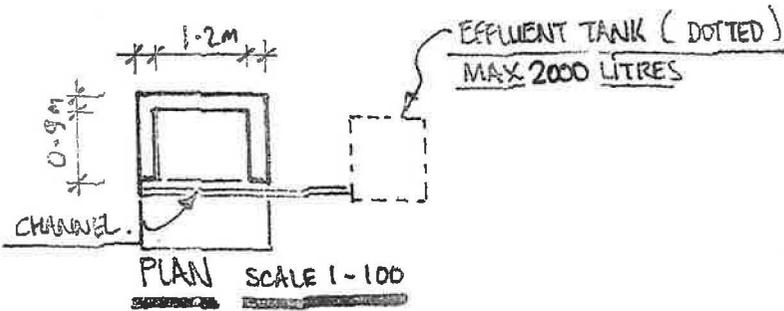
200m

PROPOSED 20m²
HORSE RING.
(DOTTED)

GERARD MALONE
BTEC. NAT. CERT. BUILDING STUDIES (LONDON)
CROSSBEG, CROSS, KILRUSH,
CO. CLARE
TEL: 087 - 6615884 FAX: 065 - 9058218

SITE MAP SCALE 1-1250

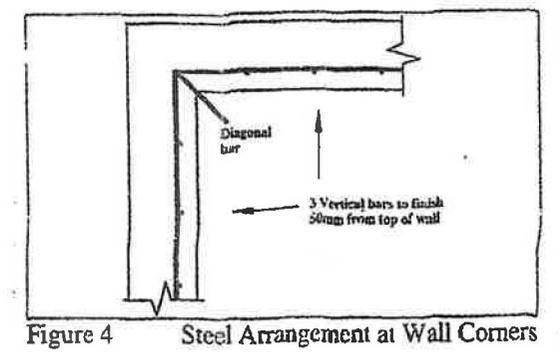
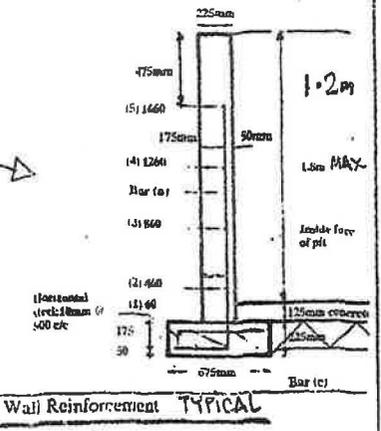
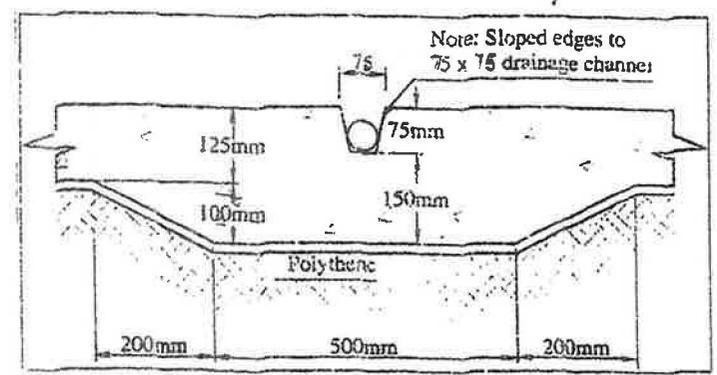
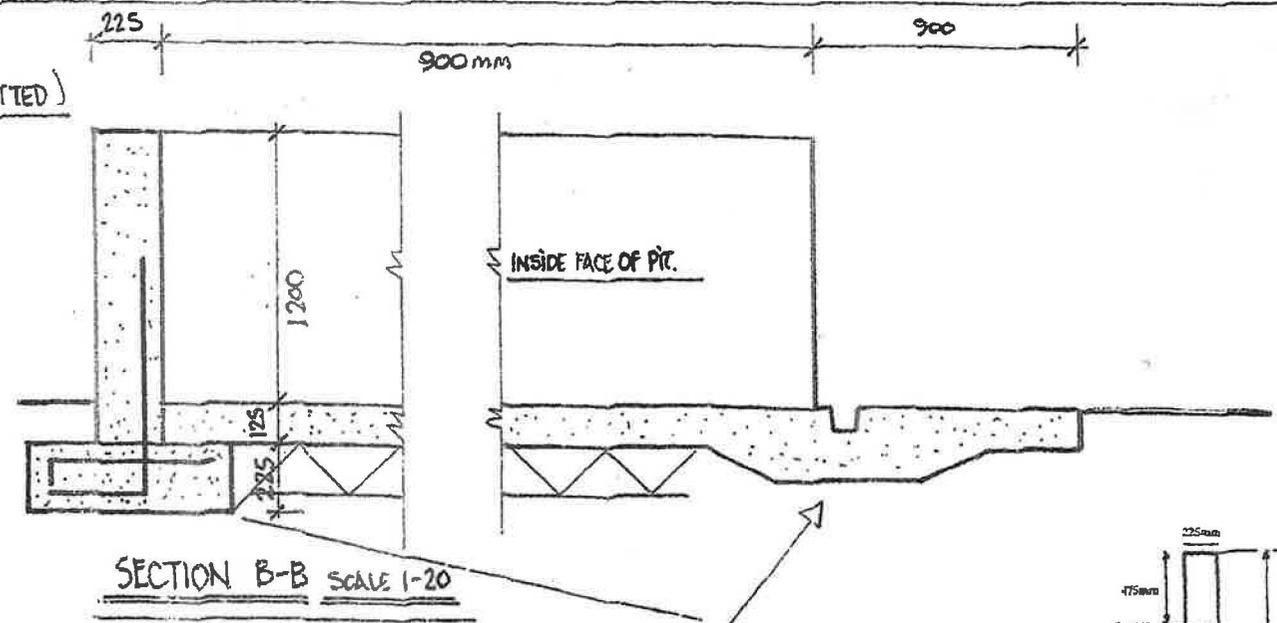
MR JOHN FITZGERALD, KILFEARAGH, KILKEE, CO. CLARE.



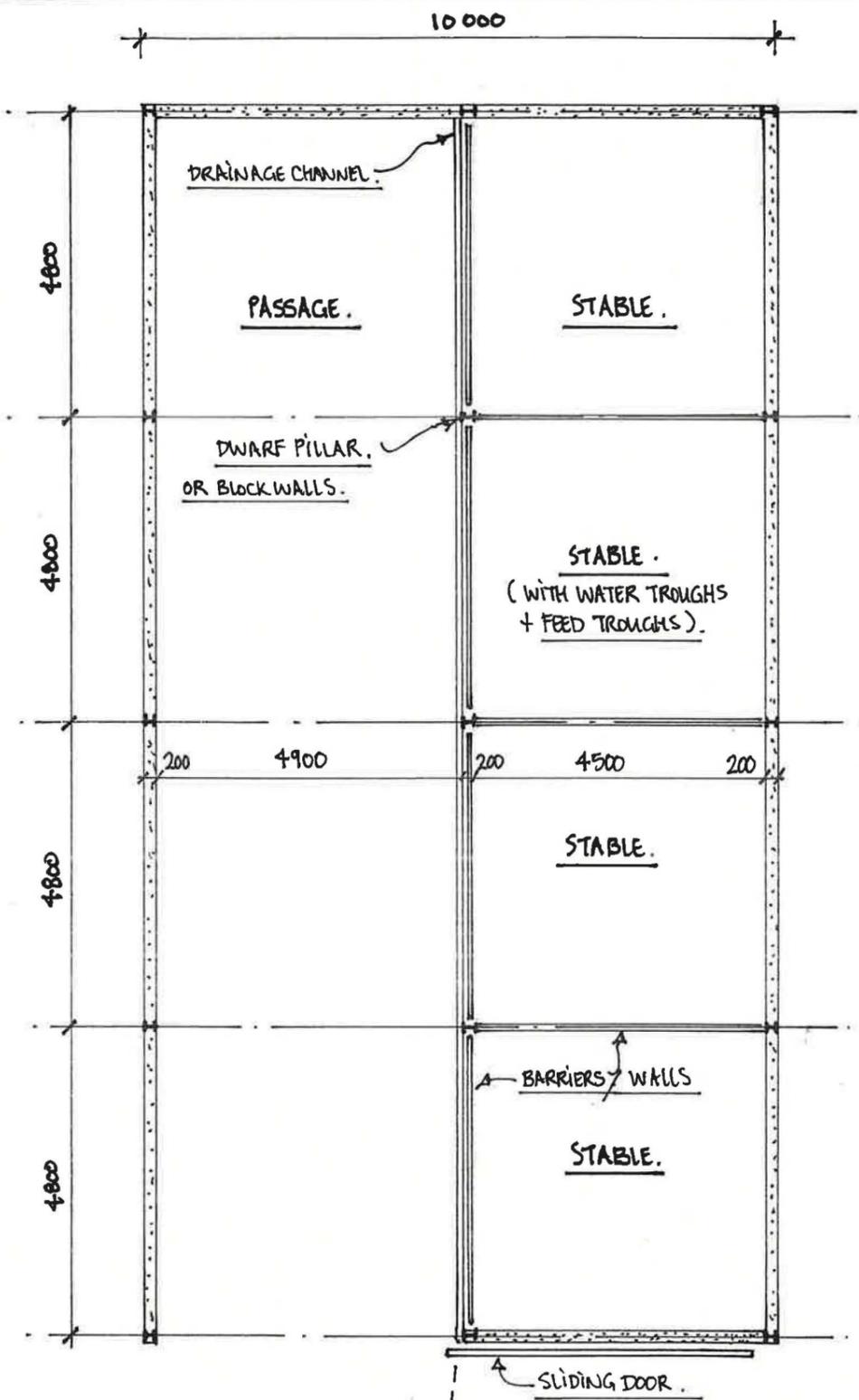
MANURE PIT & TANK.

ALL MATERIALS & METHOD OF CONSTRUCTION TO COMPLY WITH DEPT OF AGRICULTURE SPEC S.108.

MR JOHN FITZGERALD, KILFEARAGH, KILKEE, Co. CLARE.



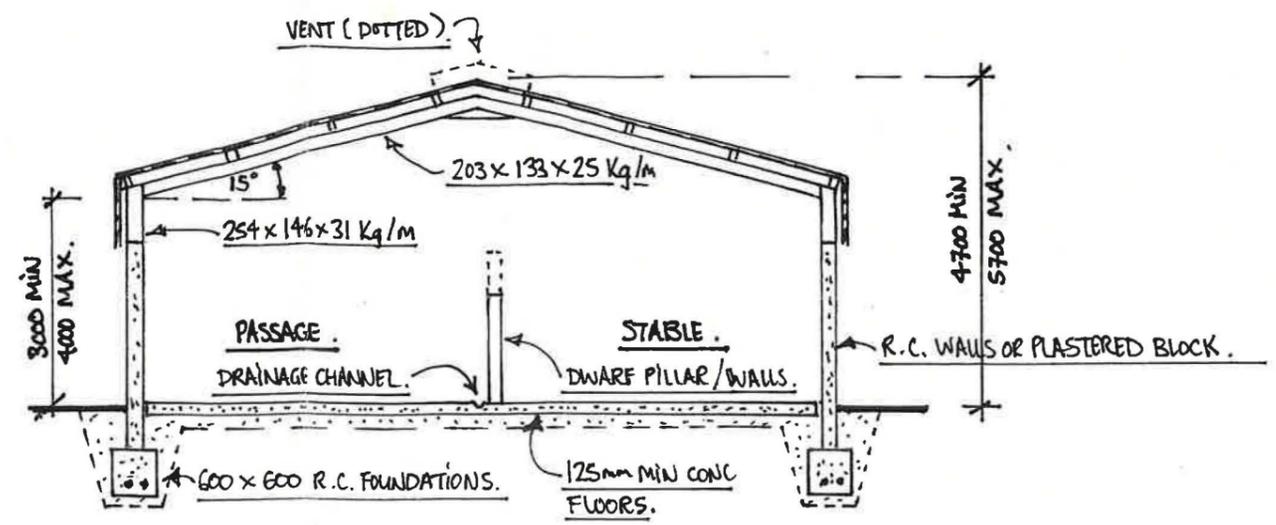
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BREC. NAT. CERN. BUILDING STUDIES (LONDON)
CROSSING, CROSS, KILRUSH,
CO. CLARE
TEL: 087-6615884 FAX: 068-9036218



GROUND FLOOR PLAN SCALE 1-100

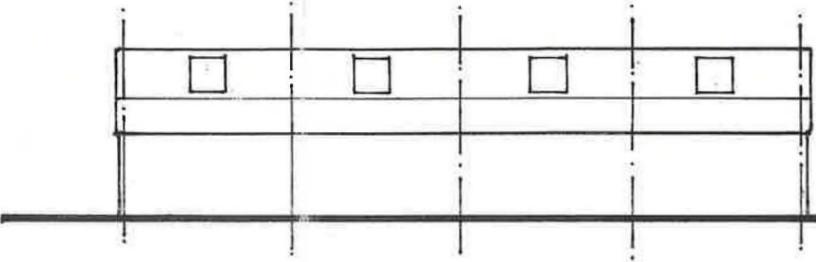
(FLOOR AREA - 182.4 m²)

↓ TO SOILED WATER TANK.
REFER LOCATION MAP.

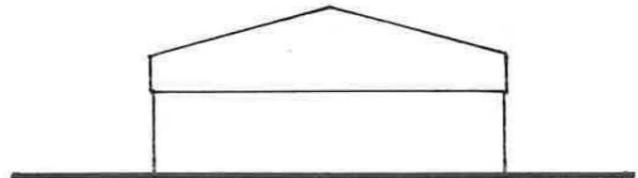


SECTION A-A SCALE 1-100

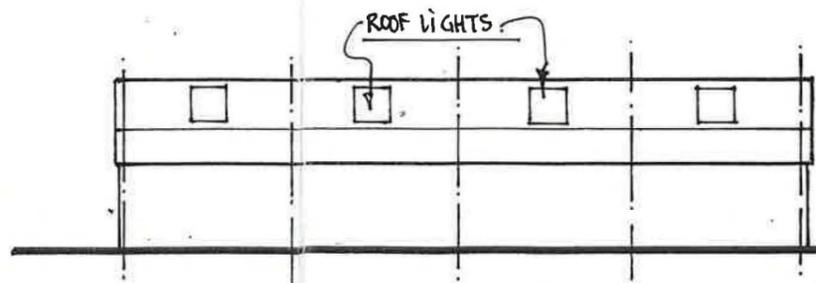
DEPT OF AGRICULTURE SPECS INCL. S.101 + S.156.



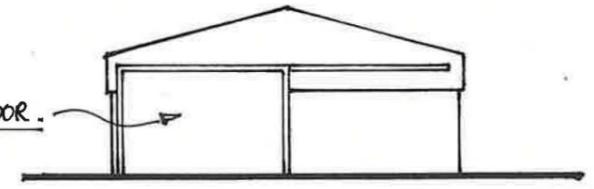
SIDE ELEVATION SCALE 1-200



REAR ELEVATION SCALE 1-200



SIDE ELEVATION SCALE 1-200



FRONT ELEVATION SCALE 1-200

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MR JOHN FITZGERALD, KILFEARAGH, KILKEE, CO. CLARE.

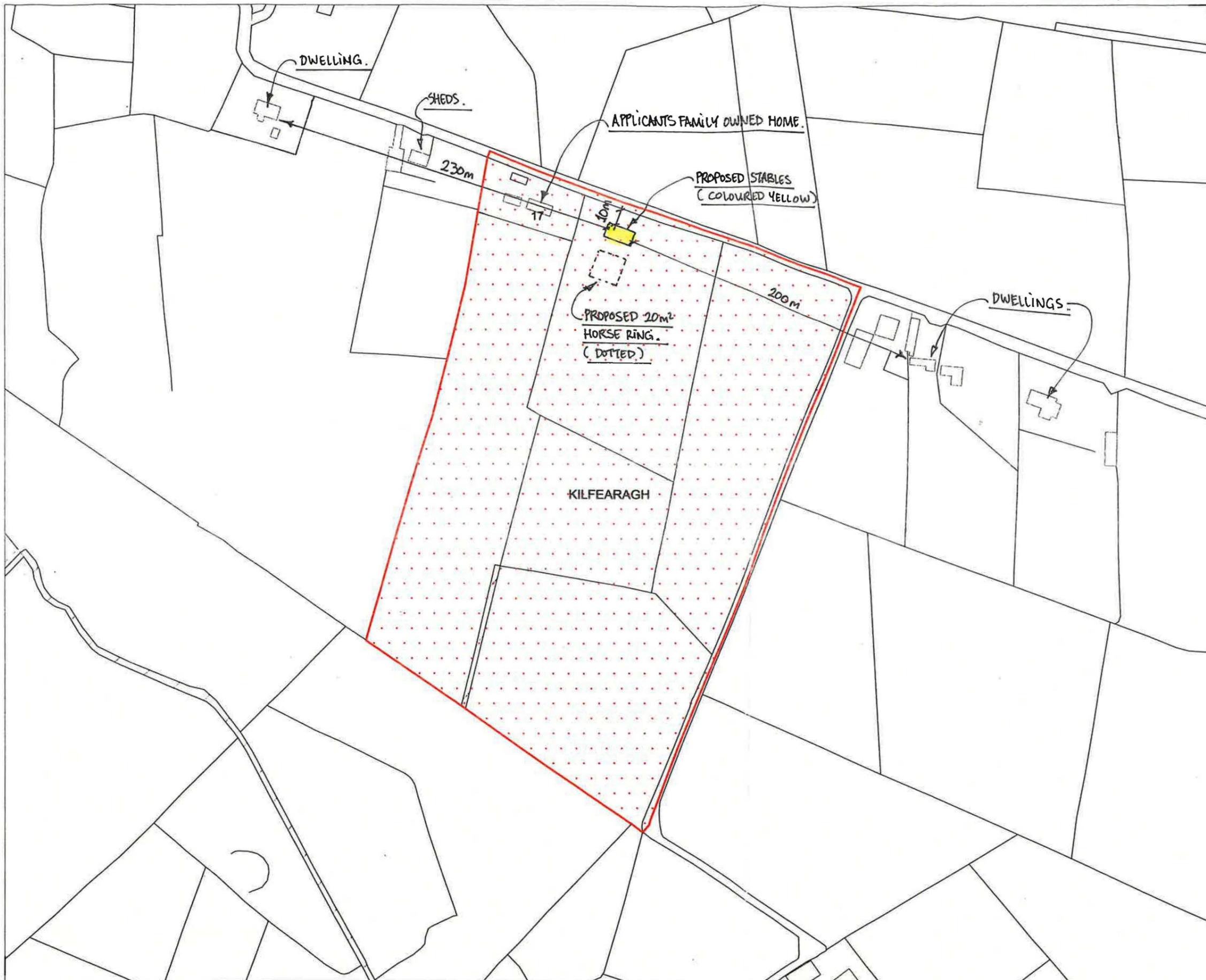


This map should be read in conjunction with the folio.

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(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold

Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit



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

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.

