



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Sean Hehir  
Killernan  
Miltown Malbay  
Co. Clare  
V95 P985**

**12th May 2025**

**Section 5 referral Reference R25-33 – Sean Hehir**

Is the construction of a livestock slatted unit at Killernan, Miltown Malbay development and if so, is it exempted development?

A Chara,

I refer to your application received on 23rd April 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](http://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



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

Reference No.: R25-33



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R25-33**

**Is the construction of a livestock slatted unit at Killernan, Miltown Malbay development and if so, is it exempted development?**

**AND WHEREAS, Sean Hehir** 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 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 23<sup>rd</sup> April 2025.

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

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

**THEREFORE:** The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the construction of a livestock slatted unit at Killernan, Miltown Malbay, 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

12th May 2025

**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: 85 456  
Reference Number: R25-33  
Date Referral Received: 23rd April 2025  
Name of Applicant: Sean Hehir  
Location of works in question: Killernan, Miltown Malbay, Co. Clare

**Section 5 referral Reference R25-33 – Sean Hehir**

Is the construction of a livestock slatted unit at Killernan, Miltown Malbay 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 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 23<sup>rd</sup> April 2025.

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

- (a) The development of the construction of a livestock slatted unit at Killernan, Miltown Malbay, County Clare, constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute "*development*" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development of the construction of a livestock slatted unit at Killernan, Miltown Malbay, County Clare, is exempted development having regard to Class 6 and Class 9 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

**ORDER:** Whereas by Chief Executive's Order No. HR 46 dated 1<sup>st</sup> 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 livestock slatted unit at Killernan, Miltown Malbay, Co. Clare is considered development which is exempted development.

Signed:

  
\_\_\_\_\_  
GARRETH RUANE  
SENIOR EXECUTIVE PLANNER 

Date:

12th May 2025

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

<b>FILE REF:</b>	R25-33
<b>APPLICANT(S):</b>	Sean Hehir
<b>REFERENCE:</b>	Whether the construction of a livestock slatted unit at Killernan, Miltown Malbay, County Clare is not development and is or is not exempted development.
<b>LOCATION:</b>	Killernan, Miltown Malbay, County Clare
<b>DUE DATE:</b>	20 <sup>th</sup> May 2025

**Site Location**

The proposal site is located in the rural townland of Killernan which is approximately 3.8km east of the Crosses of Annagh. It is to the north of the LP2114 local primary road and to the west of a private cul de sac road serving the applicants dwelling further to the north. The site comprises the north east corner of a larger agricultural field. The main views towards the site are passing and approach views on the road to the south.

**Recent Planning History**

Onsite

None.

South

05-2221 – Granted - Anne Murphy - to change design and location of dwelling house as granted under existing permission LA-03-29 and to change use of existing dwelling to private garage.

08-1421 – Granted- Carmel Walsh - to construct a dwelling house, garage, sewerage treatment system and percolation area along with associated site works.

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Sean Hehir who states that he is seeking a Section 5 Declaration as to whether the construction of a livestock slatted unit at Killernan, Miltown Malbay, County Clare is not development and is or is not exempted development.

**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.*

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

- (a) *if the carrying out of such development would –*
  - (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
  - (ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
  - (iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*
  - (iii)(a) *endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
  - (iv) *interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*
  - (vii) *consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*
  - (viiA) *consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*
  - (viiB) *comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*
  - (viiC) *consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.”*
  - (viii) *consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

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

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

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

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

## Assessment

### Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of a livestock slatted unit at Killernan, Miltown Malbay, 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 Slatted Shed

- |                           |  |
|---------------------------|--|
| • Height                  | 5.875 metres   |
| • Proposed Floor Area     | 14 sqm   |
| • Proposed Storage Volume | 173 cbm  |
| • Distance from road      | Greater than 10 metres   |
| • Distance from dwellings | Greater than 100 metres (from 3 <sup>rd</sup> Party Dwellings)<br>90 metres from applicants dwelling |

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

*Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200*

*square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.*

It is proposed that the structure will be used as a slatted shed for the housing of cattle.

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

The use proposed is agricultural.

- 2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*

The 300 sqm threshold is not exceeded in this instance.

- 3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.*

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

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

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

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

This height threshold is not exceeded in this instance.

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

The proposed development would not be within 100 metres of existing 3<sup>rd</sup> party dwellings.

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

Standard agricultural cladding proposed.

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 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 approximately 5km from the Mid-Clare Coast SPA and the Carrowmore Point to Spanish Point and Islands SAC. There is a watercourse (Annagh River) to the west and north of the site that flows into these designations. The spreadland maps were received with the application. Having regard to the nature and scale of the proposed development and the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site. An appropriate assessment screening report and determination is attached to this report.

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

The proposed development would not be likely to have an adverse impact on an area designated as a natural heritage area.

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

Not applicable.

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

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

### **Conclusion**

Having regard to the above it is considered that the construction of a livestock slatted unit at Killernan, Miltown Malbay, County Clare constitutes both 'works' and 'development'. However, regard has also been had to Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and the proposal is development that is exempted development.

### **Recommendation**

**The following question has been referred to the Planning Authority:**

Whether the construction of a livestock slatted unit at Killernan, Miltown Malbay, 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 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

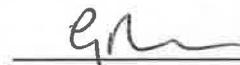
(d) The works as indicated in submitted documents from the referrer on the 23<sup>rd</sup> April 2025.

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

- (a) the development of the construction of a livestock slatted unit at Killernan, Miltown Malbay, County Clare, constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development of the construction of a livestock slatted unit at Killernan, Miltown Malbay, County Clare, is exempted development having regard to Class 6 and Class 9 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority) hereby decides that the construction of a livestock slatted unit at Killernan, Miltown Malbay, County Clare is development and is exempted development.

  
Executive Planner  
Date: 20<sup>th</sup> May 2025  
09

  
Senior Executive Planner  
Date: 09/05/25



**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)<sup>1</sup> 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 <sup>2</sup>	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on <a href="http://www.npws.ie/protectedsites">www.npws.ie/protectedsites</a> ) or through Intranet.	Distance to Applicant Site (km)
Mid Clare Coast SPA	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Barnacle Goose ( <i>Branta leucopsis</i> ) [A045] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Sanderling ( <i>Calidris alba</i> ) [A144] Purple Sandpiper ( <i>Calidris maritima</i> ) [A148] Dunlin ( <i>Calidris alpina</i> ) [A149] Turnstone ( <i>Arenaria interpres</i> ) [A169] Wetland and Waterbirds [A999]	5
Carrowmore Point to Spanish Point and Islands SAC	Coastal lagoons [1150] Reefs [1170] Perennial vegetation of stony banks [1220] Petrifying springs with tufa formation (Cratoneurion) [7220]	5

<sup>1</sup> 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.

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

1	<b>Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.</b>	<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	<b>Impacts on terrestrial habitats and species.</b>	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	No
3	<b>Impacts on designated marine habitats and species.</b>	<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	<b>Impacts on birds in SPAs</b>	<i>Is the development within 1km of a Special Protection Area</i>	No
5	<b>Indirect effects</b>	<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

<b>Appropriate Assessment Screening Determination</b>	
<b>Planning File Reference</b>	R25-33
<b>Proposed Development</b>	Slatted shed
<b>Development Location</b>	Killernan Miltown Malbay
<b>European sites within impact zone</b>	As per report
<b>Description of the project</b>	
Slatted shed	
<b>Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site</b>	
As per report	
<b>Describe how the project or plan (alone or in combination) is likely to affect the European site(s).</b>	
Water quality & general disturbance	
<b>If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?</b>	
<p>Adequate spreadlands Spreading must accord to agricultural best practice in terms of timing, setbacks etc.</p> <p>Having regard to the nature and scale of the proposed development and the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site.</p>	
<b>Documentation reviewed for making this statement</b>	
NPWS website Plans and particulars received GIS mapping database	
<b>Conclusion of assessment (a, b, c or d)</b>	
<b>(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s)<sup>3</sup></b>	No
<b>(b) There is no potential for significant effects to European Sites<sup>3</sup></b>	Yes

<sup>3</sup> 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.

<b>(c) The potential for significant effects to European Site(s) cannot be ruled out<sup>4</sup></b>	No
<b>(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 2010<sup>5</sup></b>	No
<b>Completed By</b>	John O'Sullivan
<b>Date</b>	<del>20</del> <sup>19</sup> th May 2025

<sup>4</sup> 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](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.

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







COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

Sean Hehir  
Killernan  
Miltown Malbay  
Co. Clare  
V95 P985

23/04/2025

**Section 5 referral Reference R25-33 – Sean Hehir**

Is the construction of a livestock slatted unit at Killernan, Miltown Malbay development and if so, is it exempted development?

A Chara,

I refer to your application received on 23rd April 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 Stúirthóireacht Forbairt Gheilleagrach**

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

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

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



CONTAE

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

AN CHLÁIR

23/04/2025 09:51:34

Receipt No: L1CASH/0/378044  
\*\*\*\*\* REPRINT \*\*\*\*\*

SEAN HEHIR  
KILLENNAN  
MILTOWN MALBAY  
CO. CLARE

R25-33



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

COMHAIRLE

Total : 80.00 EUR

CONTAE

Tendered :  
CHEQUES 80.00

AN CHLÁIR

Change : 0.00

Issued By : L1CASH - DEIRDRE FRENCH  
From : MAIN CASH OFFICE LODGEMENT AF  
Vat reg No. 0033043E

P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,  
Economic Development Directorate,  
Clare County Council,  
New Road, Ennis,  
Co. Clare.  
V95DXP2

Telephone No. (065) 6821616  
Fax No. (065) 6892071  
Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://www.clarecoco.ie)



COMHAIRLE CONTAE AN CHLÁIR  
CLARE COUNTY COUNCIL

R25-33

**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*

<b>1. CORRESPONDENCE DETAILS.</b>	
(a) Name and Address of person seeking the declaration	<p>SEAN HEHIR</p> <p>KILLERNAN MILTOWN MALBAY</p> <p>CO CLARE</p> <p style="text-align: right;">Eircode: V95 P985</p>
(b) Telephone No.:	<p>0 3 5 1 2 3 4 5 6 7 8 9</p>
(c) Email Address:	
(d) Agent's Name and address:	<p>N/A</p> <p style="text-align: right;">EIRCODE: _____</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 A LIVESTOCK SLATTED UNIT AT KILLERNAN, MILTOWN MALBAY 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.

PROPOSED SLATTED UNIT IS UNDER 200M<sup>2</sup> FLOOR AREA  
 PROPOSED PLUS EXISTING ANIMAL HOUSING IS UNDER 300M<sup>2</sup>.  
 PROPOSED SLATTED UNIT IS 5.875M IN HEIGHT  
 PROPOSED SITE IS 120M FROM PUBLIC ROAD  
 PROPOSED SITE IS MORE THAN 100M FROM NEIGHBOUR  
 STOCK NUMBERS : SUCKLER COW 21, CALVES 21.  
 AREA FARMED 42.43 HECTARES  
 HOLDINGS ORGANIC NITROGEN /HECTARE = 82 Kg N/HA.  
 APPLICANT RECENTLY PURCHASED THESE LANDS AND NOW WISHES TO CONSTRUCT SHED TO HOUSE ANIMALS.

(c) List of plans, drawings etc. submitted with this request for a declaration:  
 (Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

FARMYARD LOCATION MAP (1:1000) X 2  
 FARMYARD LAYOUT PLAN (1:500) X 2  
 STRUCTURAL DRAWINGS (1:100) + (1:200) X 2  
 BISS MAPS X 2  
 STATEMENT OF ORGANIC NITROGEN + PHOSPHORUS X 2

<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:	KILLERNAN MILTOWN MALBAY 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):	APPLICANT IS 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)?:	YES
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	NO
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	NO
(h) Date on which 'works' in question <del>were completed</del> /are likely to take place:	SEPT./OCT. 2025

SIGNED: Sean Mehir

DATE: 17-04-2025

**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:.....			

# Land Registry Compliant Map



Tailte Éireann

**FARMYARD LOCATION MAP**  
**AT KILLERNAN, MILTOWN MALBAY, CO. CLARE**  
**FOR Mr. SEAN HEHIR**  
*Marked by Mr.P.Conlon. [C.Eng.Tech.,Dip.Const.]*  
*Clohammore, Cree, Co.Clare.*

**CENTRE COORDINATES:**  
ITM 508153,675577

**PUBLISHED:** 10/04/2025  
**ORDER NO.:** 50460181\_1  
**MAP SERIES:** 1:5,000  
**MAP SHEETS:** 4316

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

[www.tailte.ie](http://www.tailte.ie)

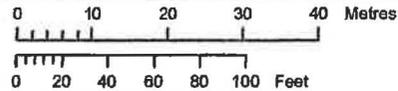
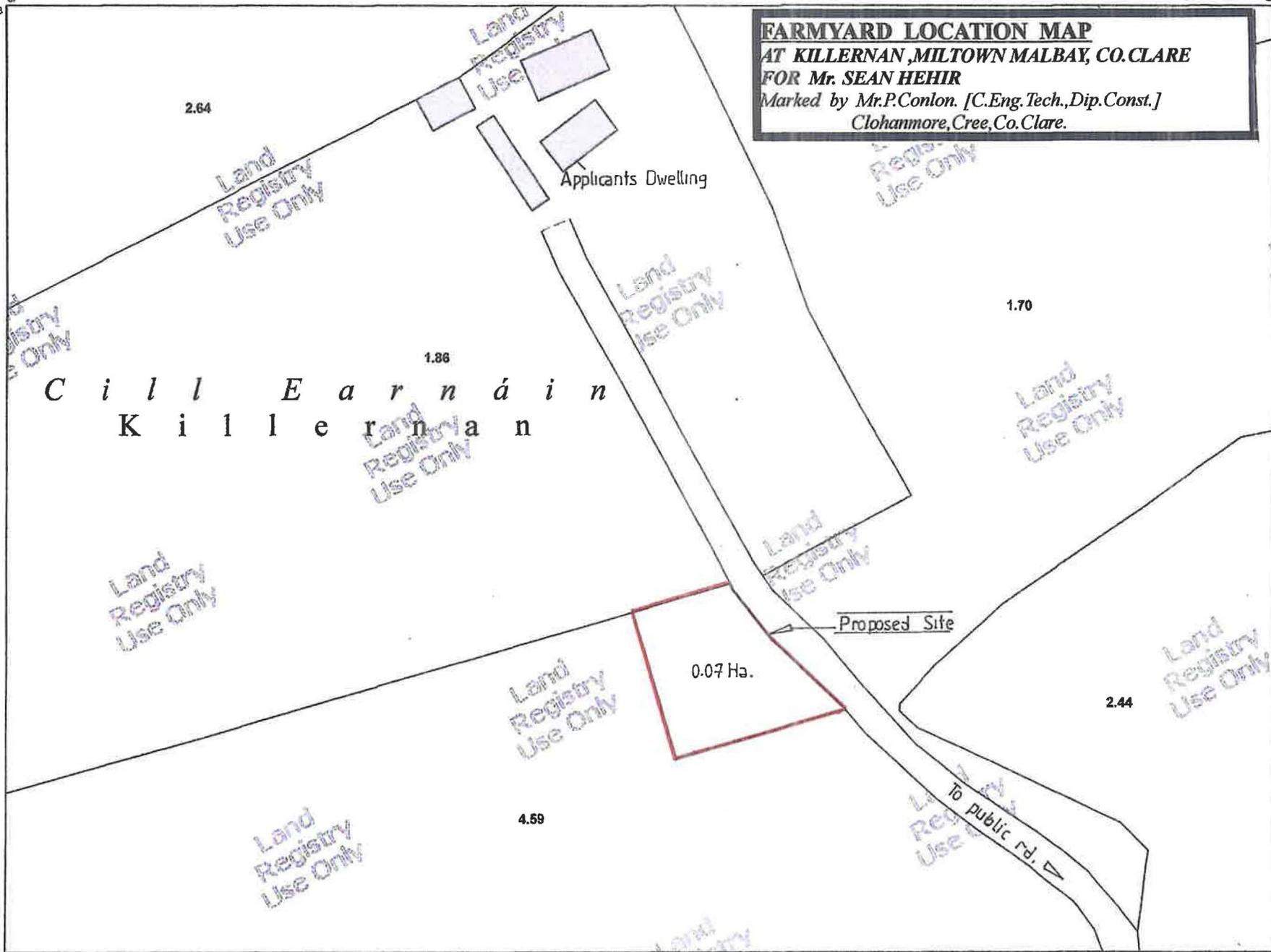
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**OUTPUT SCALE: 1:1,000**

**CAPTURE RESOLUTION:**  
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: [www.tailte.ie/Products/Creation/Resolution](http://www.tailte.ie/Products/Creation/Resolution)

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





**Statement of Organic Nitrogen and Phosphorus**  
For Period 01-Jan-24 to 31-Dec-24

MULLAGH  
ENNIS  
CO. CLARE  
V95 FK1E

**This statement includes organic N produced by cattle on your holding, and includes exports and imports of organic nutrients where applicable.**

**This statement also includes the organic nitrogen limits of your holding.**

<b>Year to date Organic N and P Produced, Exported and Imported &amp; Land Area for Nitrates</b>	
Herd Number:	
Cattle Nitrogen (N) on Holding:	3450 kg
Cattle Phosphorus (P) on Holding:	508 kg
Organic Manure N Exported:	0 kg
Organic Manure N Imported:	0 kg
Total Organic N for Holding:	3450 kg
Allowable Nitrates Area:	42.24 ha
<b>Holding's Organic Nitrogen per Hectare (NPH):</b>	<b>82 kg N/ha</b>

<b>Holding's Organic N limit for the year</b>	
Holding's Maximum Organic Nitrogen (N) Limit:	7180.8 kg
Holding's Allowable Nitrates Area:	42.24 ha
Holding's Maximum Organic Nitrogen per Hectare (NPH) limit:	170.0 kg N/ha

<b>Breakdown of the limits according to land area</b>			
Maximum organic NPH (kg N/ha)	BISS Reference Area (ha)	Allowable Nitrates Area (ha)	Holdings Maximum organic N Limit (kg)
170	42.24	42.24	7180.8

**Safety**

**APPLICANT'S RESPONSIBILITY FOR SAFETY**

Applicants are reminded that they have a duty under the Safety, Health, and Welfare at Work Act 2005 to provide a safe working environment on the farm, including farm buildings, for all people who may work on that farm. There is a further duty to ensure that any contractor, or person hired to do building work, provides and/or works in a safe environment during construction. It is the farmer's responsibility to provide a construction stage project supervisor.

**SAFETY DURING CONSTRUCTION**

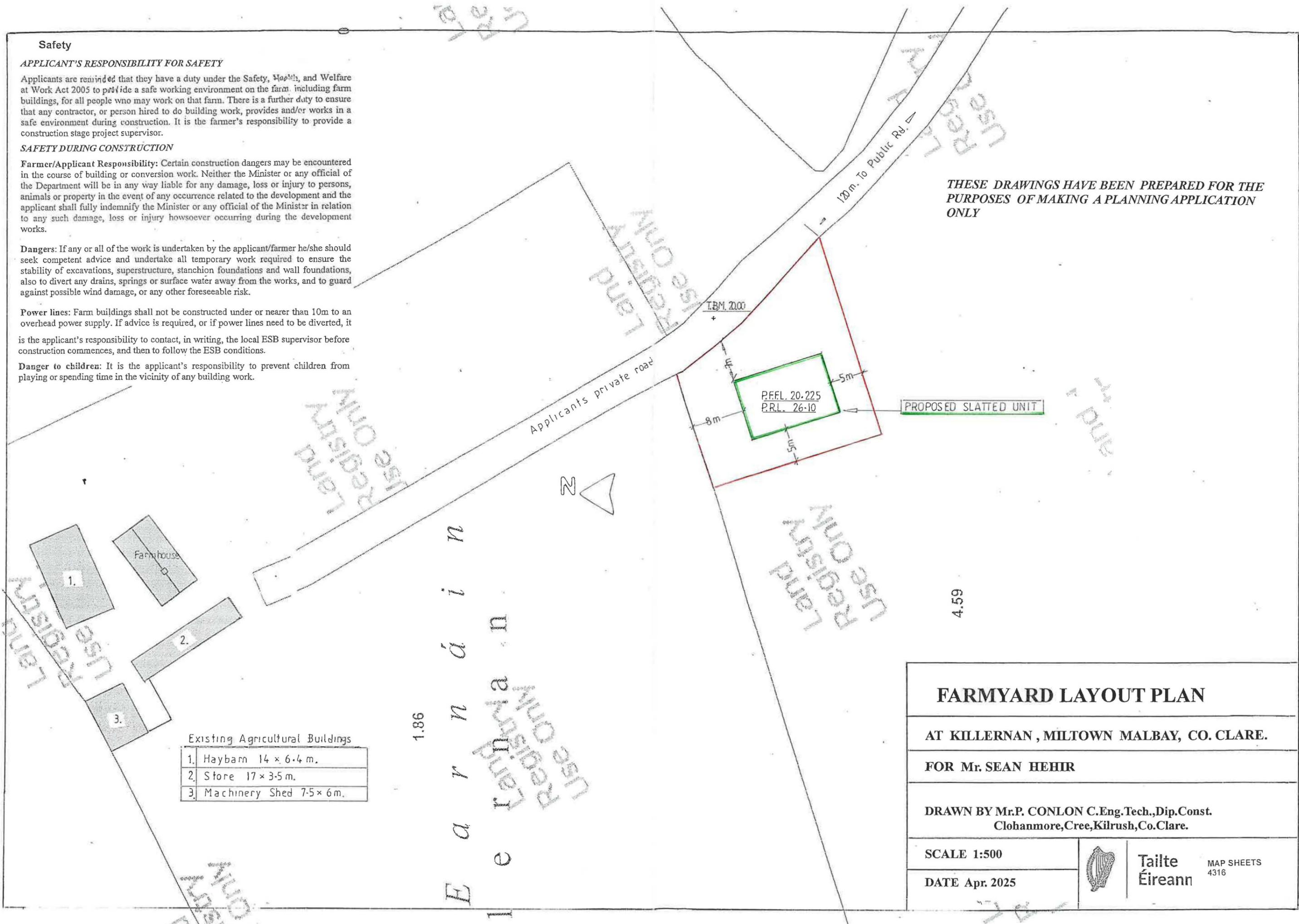
**Farmer/Applicant Responsibility:** Certain construction dangers may be encountered in the course of building or conversion work. Neither the Minister or any official of the Department will be in any way liable for any damage, loss or injury to persons, animals or property in the event of any occurrence related to the development and the applicant shall fully indemnify the Minister or any official of the Minister in relation to any such damage, loss or injury howsoever occurring during the development works.

**Dangers:** If any or all of the work is undertaken by the applicant/farmer he/she should seek competent advice and undertake all temporary work required to ensure the stability of excavations, superstructure, stanchion foundations and wall foundations, also to divert any drains, springs or surface water away from the works, and to guard against possible wind damage, or any other foreseeable risk.

**Power lines:** Farm buildings shall not be constructed under or nearer than 10m to an overhead power supply. If advice is required, or if power lines need to be diverted, it is the applicant's responsibility to contact, in writing, the local ESB supervisor before construction commences, and then to follow the ESB conditions.

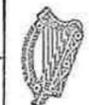
**Danger to children:** It is the applicant's responsibility to prevent children from playing or spending time in the vicinity of any building work.

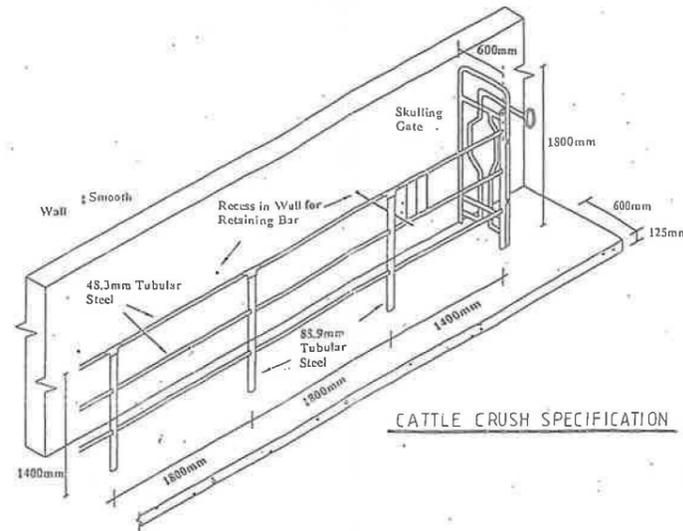
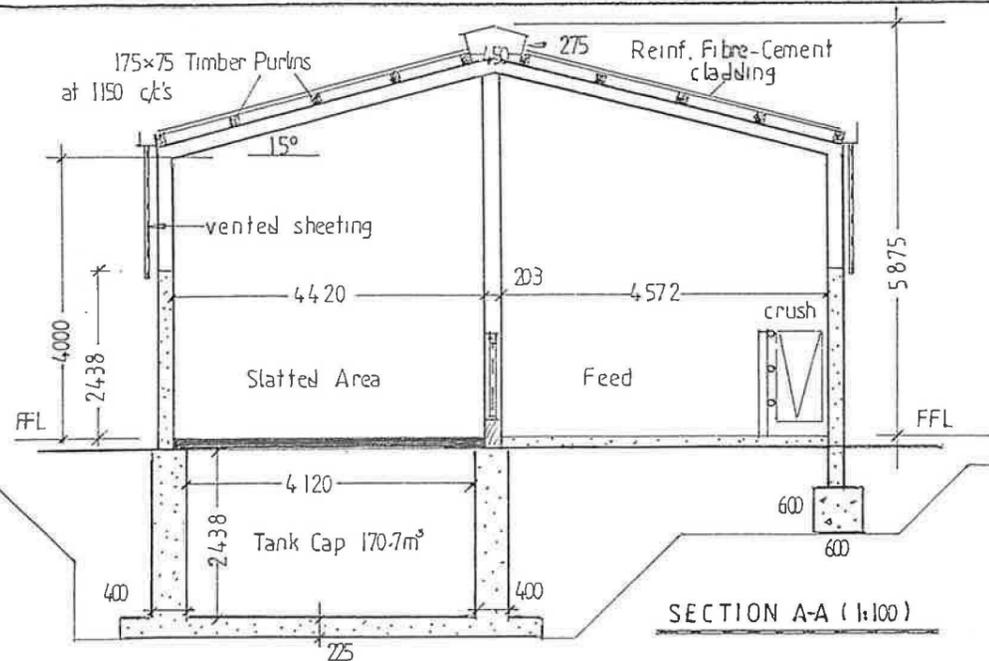
THESE DRAWINGS HAVE BEEN PREPARED FOR THE PURPOSES OF MAKING A PLANNING APPLICATION ONLY



Existing Agricultural Buildings

1.	Haybarn 14 x 6.4 m.
2.	Store 17 x 3.5 m.
3.	Machinery Shed 7.5 x 6 m.

<b>FARMYARD LAYOUT PLAN</b>	
AT KILLERNAN, MILTOWN MALBAY, CO. CLARE.	
FOR Mr. SEAN HEHIR	
DRAWN BY Mr.P. CONLON C.Eng.Tech.,Dip.Const. Clohanmore,Cree,Kilrush,Co.Clare.	
SCALE 1:500	 <b>Tailte Éireann</b>
DATE Apr. 2025	
MAP SHEETS 4316	



## PROPOSED SLATTED UNIT

AT KILLERNAN, MILTOWN MALBAY, CO. CLARE.

FOR Mr. SEAN HEHIR

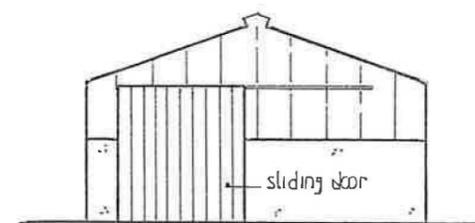
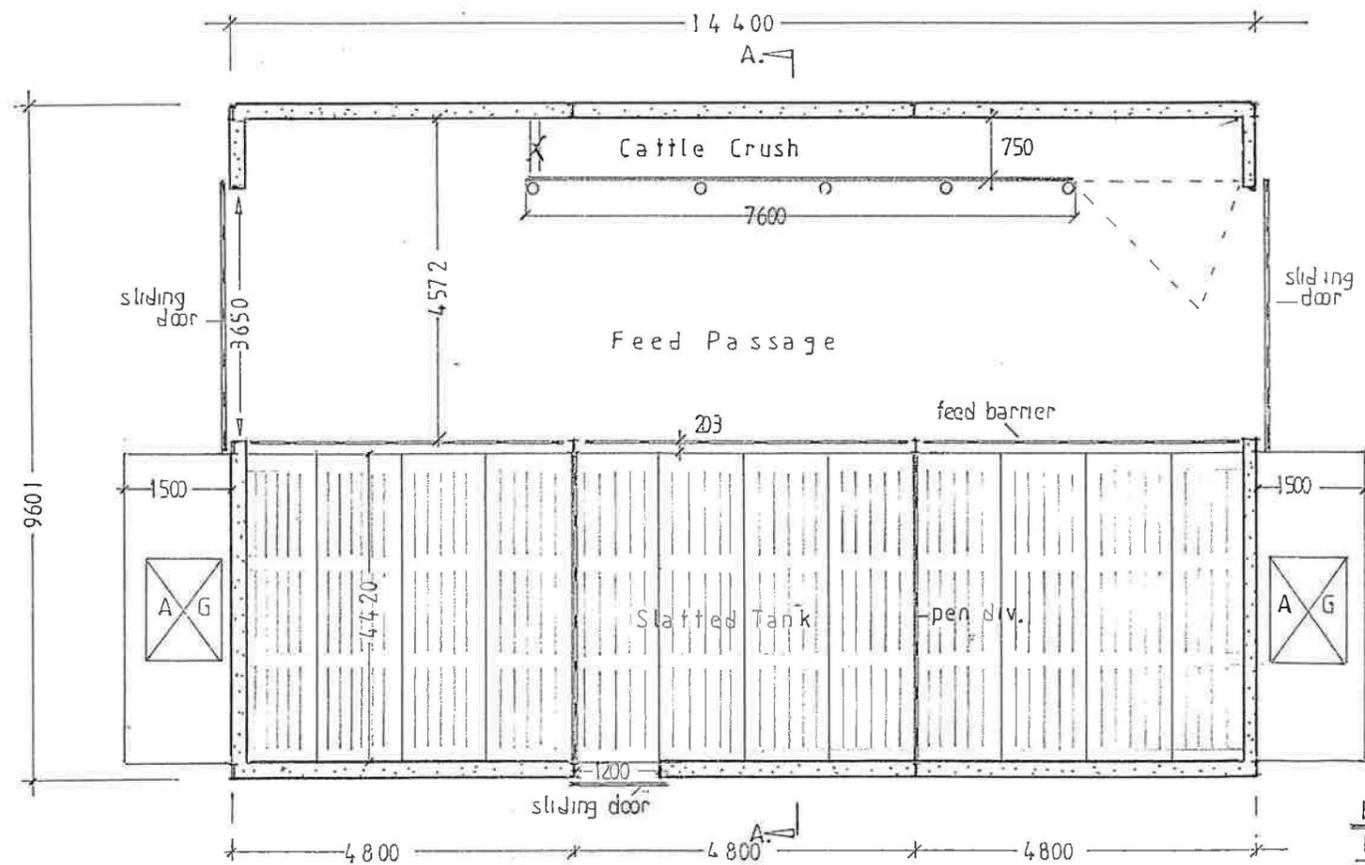
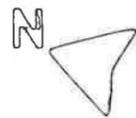
DRAWN BY Mr. P. CONLON C.Eng.Tech., Dip.Const.  
Clohanmore, Cree, Kilrush, Co. Clare.

SCALE 1:100 +1:200

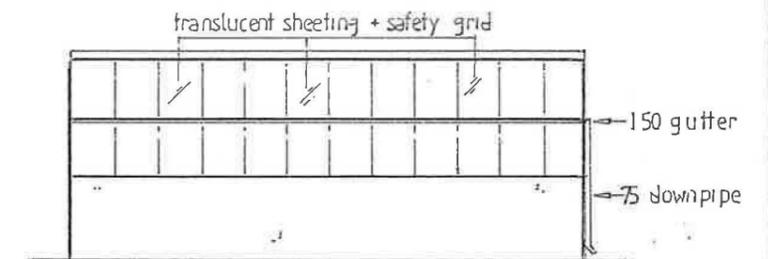
DATE Apr. 2025

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

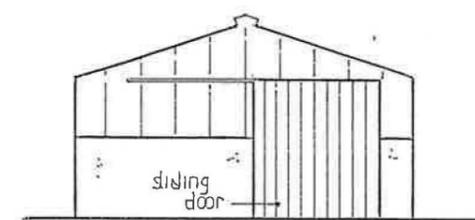
ALL WORKS TO COMPLY & ADHERE TO DEPT AGRICULTURE MIN. SPECIFICATION S.100, S.101, S.123, S.137.



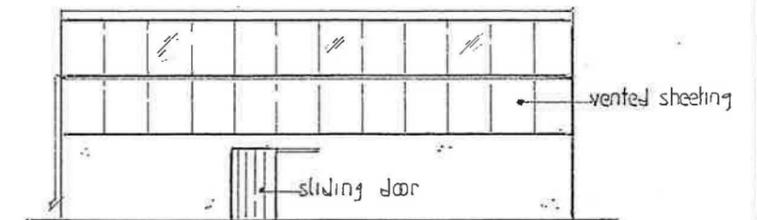
END ELEVATION (1:200)



SIDE ELEVATION (1:200)



END ELEVATION (1:200)



SIDE ELEVATION (1:200)

PLAN (1:100)  
Floor Area 128.67m<sup>2</sup>.