



Tipperary County Council
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- 4 DEC 2023
CSD
Civic Offices, Nenagh

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

<i>Applicant</i>	Naomi Morrissey
<i>Address</i>	Boulabeha, Moyne, Thurles, Co. Tipperary E41V660
<i>Telephone No.</i>	[REDACTED]
<i>E-mail</i>	[REDACTED]

2. Agent's (if any) address:

<i>Agent</i>	
<i>Address</i>	
<i>Telephone No.</i>	
<i>E-mail</i>	
<i>Please advise where all correspondence in relation to this application is to be sent;</i>	
Applicant [*]	Agent []

3. Location of Proposed Development:

<i>Postal Address or Townland or Location (as may best identify the land or structure in question)</i>	Boulabeha, Moyne. E41V660 ITM 620047,663865
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TIPPERARY CO. COUNCIL
RECEIVED
- 4 DEC 2023
PLANNING SECTION
FILE NO. 55/23/146

4. Development Details:

Please provide details of the proposed development for which an exemption under Section 5 of the Planning and Development Act is applied for.

(Note: only works and uses listed and described under this section will be assessed under this Section 5 Application. Use additional sheets if required.

Planning Exemption Certificate under Class 9 for the construction of dry stores sheds and glass-houses.
The building is 192Sqm. Its greater than 100m from any house (other than my own), It greater than 100m from the public road and less than 5m high
Proposed floor area of proposed works/uses: 192 sqm

5. Legal Interest of Applicant in the Land or Structure:

<i>Please tick appropriate box to show applicant's legal interest in the land or structure</i>	A. Owner *	B. Occupier
	C. Other	
<i>Where legal interest is 'Other', please expand further on your interest in the land or structure</i>		
<i>If you are not the legal owner, please state the name and address of the owner</i>	Name: Address:	

Signature of Applicant(s) 

Date: 29/Nov/2023

Note: If the proposed development consists of works to a (Proposed) Protected Structure and/or any structure within the curtilage of a (Proposed) Protected Structure, an application for a Section 57 Declaration may be more appropriate.

GUIDANCE NOTES

- (1) All queries on the form must be completed and the form must be accompanied by the relevant fee. The amount of the fee is currently **€80.00**.
- (2) This application should be accompanied by **TWO COPIES** of the following documentation
 - OSI Site Location Map with the site outlined clearly – 1:1000 in urban areas and 1:2500 in rural areas
 - Floor Plans & Elevations at a scale of not less than 1:200
 - Site layout plan indicating position of proposed development relative to premises and adjoining properties
 - Other details e.g. brochures, photographs if appropriate.

(All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)

- (3) Where a proper and complete application is received, a decision must be conveyed to the applicant within four (4) weeks except where additional necessary information is required.

This application form and relevant fee should be submitted to:

**Planning Section,
Tipperary County Council,
Civic Offices,
Limerick Road,
Nenagh,
Co. Tipperary**

OR

**Planning Section,
Tipperary County Council,
Civic Offices,
Emmet Street,
Clonmel,
Co. Tipperary**

Enquires:

Telephone 0818 06 5000

E-Mail planning@tipperarycoco.ie

FOR OFFICE USE ONLY

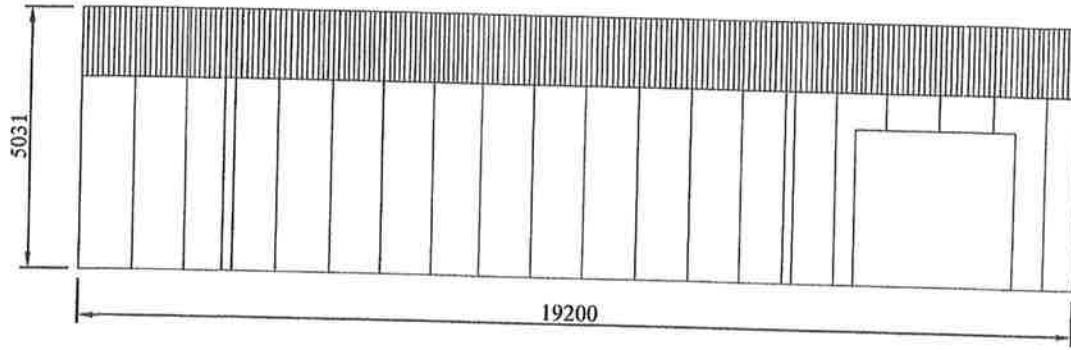
DATE STAMP

Fee Recd. € 80.00

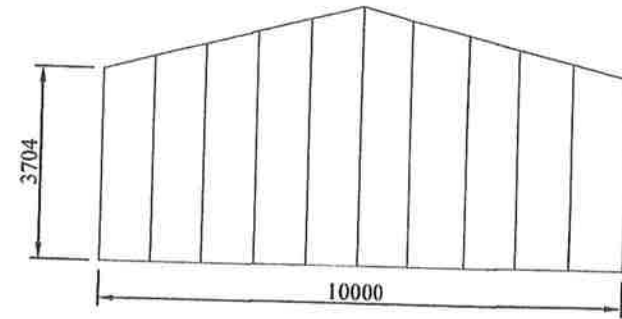
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Date 4/12/23

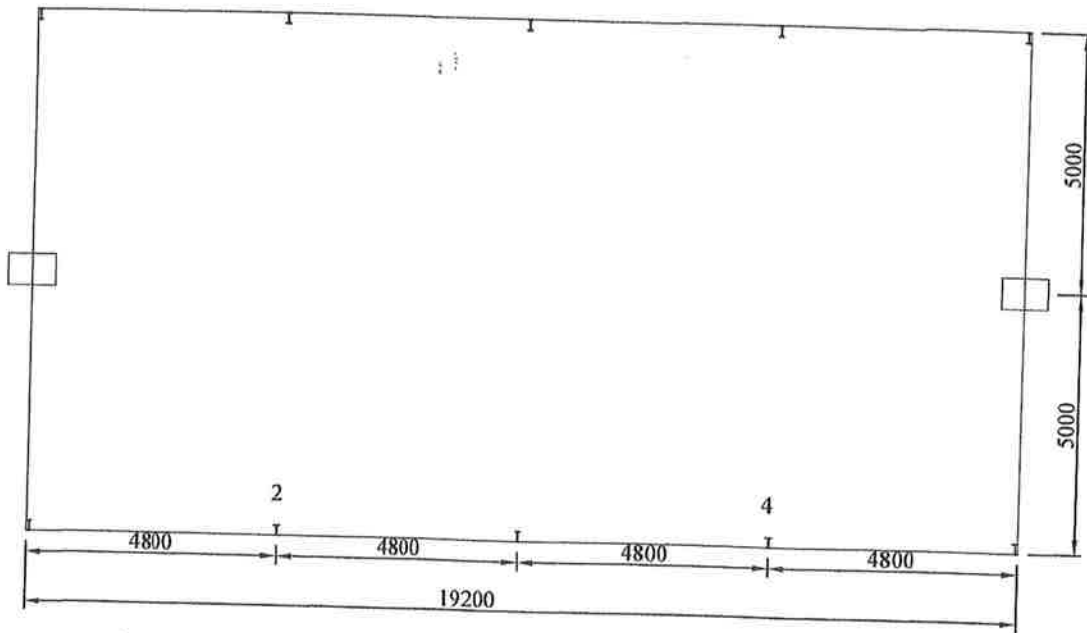
Received by M.L




Side Elevation



End View



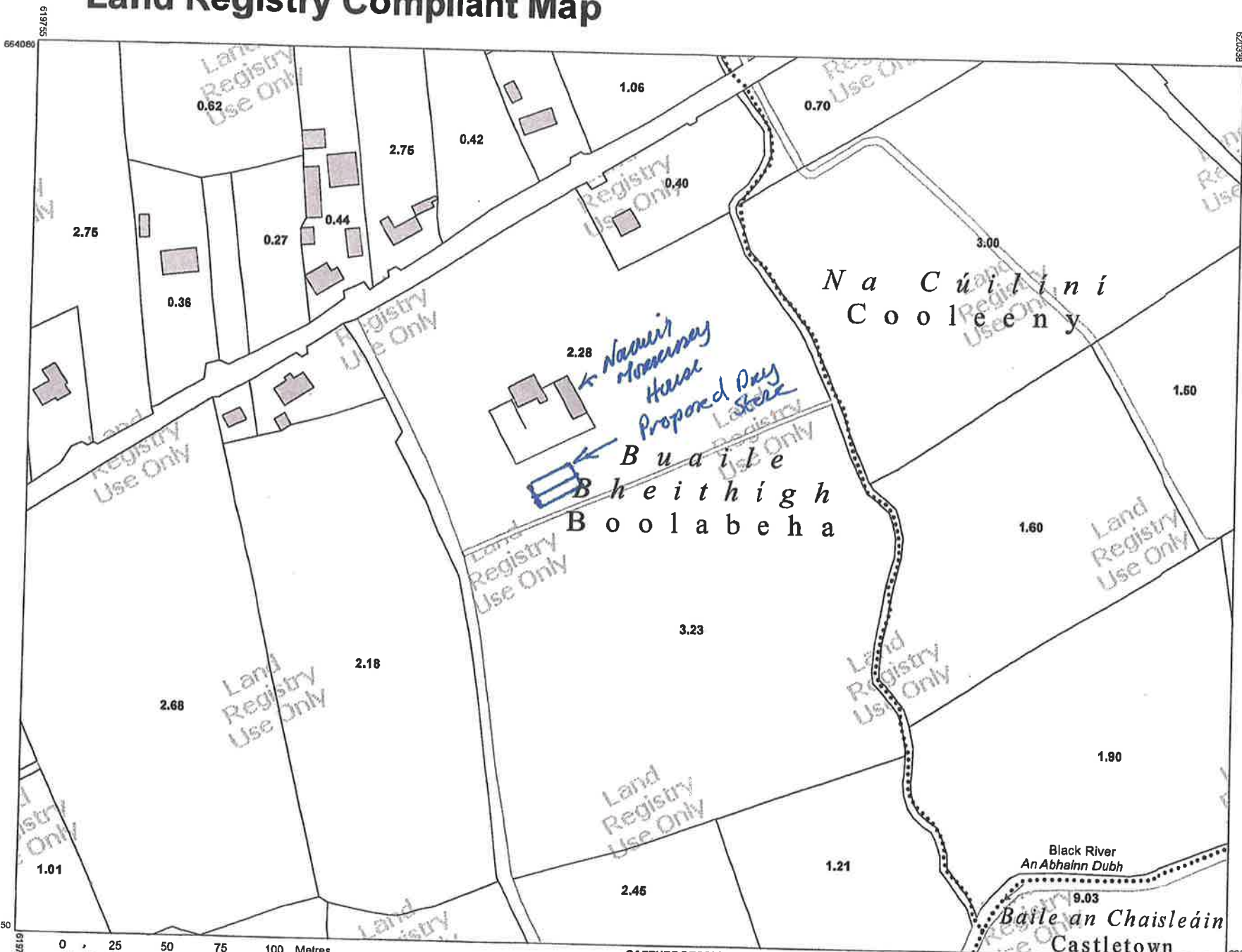
Section Plan

Revision	Date	By
<p>NOTE ALL BUILDING CONSTRUCTION, MATERIALS AND SPECIFICATIONS TO COMPLY WITH THE 1997 BUILDING REGULATIONS AND THE DEPARTMENT OF THE ENVIRONMENT RECOMMENDATIONS.</p>		
<p>HOLDER MUST BE REGISTERED WITH THE NATIONAL HOUSE BUILDING GUARANTEE SCHEME N.H.B.G.S. IRG GUARANTEE CERTIFICATE TO BE ISSUED TO CLIENT UPON COMPLETION. ALL WORK TO BE SUPERVISED AND PASSED BY SITE ENGINEER APPOINTED BY CLIENT</p>		
<p>TITLE Sections & Plans AGRI STORE</p>		
<p>PROJECT NAOMI MORESSEY MOYNE Co. Tipperary</p>		
DRAWN BY G Maher	CHECKED --	DATE 01/12/23
SCALE 1:100	W/O No:	
DIMENSIONS IN MM		VIEWS
DRAWING No. 43297-01		 1st Angle Projection
A 3		Sheet 1/2

Land Registry Compliant Map



Tailte Éireann



CENTRE COORDINATES:
ITM 620047,683865

PUBLISHED: 20/10/2023 **ORDER NO.:** 50363900_1

MAP SERIES: 1:5,000
1:5,000 **MAP SHEETS:** 4578
4579

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E45 A099

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e customerservice
@tipperarycoco.ie
tipperarycoco.ie

Our Ref: S5/23/146

Date: 5 December 2023

Civic Offices, Nenagh

Naomi Morrissey
Boulabeha
Moyne
Thurles
Co. Tipperary
E41 V660

Re: Application for a Section 5 Declaration – Construction of building 192sqm and less than 5m high at Boulabeha, Moyne, Thurles, Co. Tipperary E41 V660.

Dear Ms Morrissey,

I acknowledge receipt of your application for a Section 5 Declaration received on 4 December 2023, in connection with the above.

I wish to advise that you will be notified of a decision on your application in due course.

Yours sincerely,

For Director of Services

TIPPERARY COUNTY COUNCIL
Application for Declaration under Section 5

Planning & Development Act 2000, as amended
Planning & Development Regulations 2001, as amended

Planning Ref.: S5/23/146
Applicant: Naomi Morrissey
Development Address: Boulabeha, Moyne, Co. Tipperary
Proposed Development: Construction of a shed/store (192sqm)

1. GENERAL

On the 4th of December, 2023 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) by Naomi Morrissey as to whether or not the following constituted development and if so, whether same was exempted development:

- Planning Exemption Certificate under Class 9 for the construction of dry stores, sheds and glass-houses. The building is 192sqm. Its greater than 100m from any house (*other than my own*), it is greater than 100m from the public road and less than 5m high.

The documentation submitted with the application included a completed application form, a site location map and a side and end elevation, together with a section.



2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Section 3 (1) of the Planning and Development Act 2000, as amended, states as follows:-

"In this Act, 'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land."

Section 2(1) of the Planning and Development Act, 2000, as amended, defines "works" as:-

"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

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of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Article 6 of the Planning and Development Regulations 2001, as amended states:

Exempted Development.

6. (1) Subject to article 9, development of a class specified in column 1 of Part 1 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 1 opposite the mention of that class in the said column 1.

Article 9 of the Planning and Development Regulations 2001, as amended sets out restrictions on exemptions and states:

9. (1) 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—
- (ii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (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,

CLASS 9

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.
2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.
3. No such structure shall be situated within 10 metres of any public road.
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

3. ASSESSMENT

a. Site Location

The proposed development is to be located to the rear of an existing dwelling, approximately 1.25km south-east of Moyne village. The site is located wholly within the residential site (as detailed on Land Registry) and partially within the residential site as denoted in the planning applications, noting different boundary details on same. Planning applications 09510659, 13511141 and 14510068 refer as set out below. The site currently accommodates a two-storey detached dwelling and a large outbuilding.

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As set out above, the documentation submitted with the application included a completed application form, a site location map, and a side and end elevation, together with a cross section of the shed, however it is noted that the application does not include a site layout plan or floor plan. It is further noted that the application has not provided any details in relation to the proposed use of the shed.

b. Relevant Planning History

- 06511227 Permission granted to William Joseph Cleary for a dwellinghouse, septic tank, entrance and all associated site works
- 08511141 Permission granted to Bill Morrissey for a dwelling house, entrance, driveway and all associated site development works (on the same site for which planning was granted for a house under reference no. 06511227)
- 09510569 Permission granted to Bill Morrissey for a change of house type, revised site boundaries, revised site layout and erection of out-buildings
- 13510411 Permission granted to Bill Morrissey for a change house type from that which was granted already under previous planning file reference no. 09/51/0569 and permission for a treatment system including all associated site development work
- 14510068 Permission granted to Bill Morrissey for an extension of duration on previously granted permission to change house type from that which was granted already under previous planning file reference no. 09/51/0569 and permission for a treatment system including all associated site development works - 13510411

Figure 1, Planning history – subject site shaded blue below.

Deleted: 2



c. Assessment

The proposal comprises the construction of a shed or store measuring 15.031m x 10m and to be constructed to a height of 5.031m (as per drawing no. 43297-01). It is noted that this drawing describes the development as an Agri-Store.

The proposed shed is set back in excess of 100m from the public road and from any third party residential properties or school, hospital, church or building used for public assembly.

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It is noted that the proposed shed will not satisfy the exempted development criteria set out under Schedule 2, Part 1, Class 3 (Exempted Development – General – Development within the curtilage of a house).

It is further noted that the applicant has referenced Schedule 2, Part 3, Class 9 (Exempted Development – Rural – Agricultural Structures), however it appears that part of the shed will encroach on the residential site.

It is considered appropriate to request the applicant to submit a site layout plan in order to ascertain if the proposed development or ancillary works will encroach on the residential site.

As set out above the application has not provided any definitive details in relation to the proposed use of the shed - it is referenced as an agri store (on sections and plans drawing) and referenced as a dry store on the land registry compliant map. It is considered appropriate to request the applicant to submit such details.

- In the event that the proposed shed/store is for agricultural use, the applicant should be requested to clarify the extent of any potential ancillary works e.g. yard area, etc and to demonstrate how the proposed shed will be accessed.
- In the event that the proposed shed/store is for commercial use, the applicant should be requested to clarify the extent of the commercial operation.

It is noted that the residential site currently accommodates a large outbuilding granted under planning reference 09510569, presumably for uses associated with the dwelling on site.

It is further noted that the adjacent agricultural lands within the applicant's part of which are the subject of this application accommodates two no. structures comprising a polytunnel and a shed adjacent to the public road. It appears that such structures do not have the benefit of planning permission or are not exempt, given the proximity to the road.

A) "Is or is not Development"

Having considered all of the details and documentation on file with regards the question asked the Planning Authority is satisfied that the proposals involve "works" and such works would constitute "development" within the meaning of Section 3 of the Act.

B) "Is or is not Exempted Development"

The subject site partially comprises a residential property with a dwelling and outbuilding. There is no evidence of other agricultural structures within the identified landholding. The area of this landholding is c. 5.24 hectares as per Land Registry details with the residential site measuring an additional 0.62ha.

The applicant is proposing to construct an agricultural storage shed and is intending to avail of the exemption under Schedule 2 Part 3 Class 9 of the Planning and Development Regulations 2001, as amended.

It is considered that the status of the existing site and the associated site boundaries is relevant in this case as same appears, at least partially, to function as an amenity space of a residential property. This is an important consideration having regard to RL.15.2235, in which An Bord Pleanála determined that the construction of an agricultural structure (for use as stables) within the curtilage of a dwelling house at Cornamucklagh, Omeath, County Louth was not exempted development as the development is located in the curtilage of a dwelling house and the exempted development provisions associated with a dwelling house do not include the development proposed.

C) Is the exemption restricted under Article 9 / are there any other restrictions that would apply.

As set out in Article 9, there are restrictions on exempted development if it is considered that the works will result in a traffic hazard. It is noted that applicant has not submitted any details in relation to the access to the proposed structure. Further information is required.

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4. ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

Proposal has been screened as required for EIA and it has been determined that same is not required (See screening report attached).

5. APPROPRIATE ASSESSMENT (AA)

Proposal has been screened as required for AA and it has been determined that same is not required (See screening report attached).

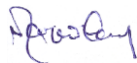
6. RECOMMENDATION

Having reviewed the details submitted, it is recommended that the following further information be requested.

1. The applicant is requested to submit a detailed narrative setting out the proposed use of the proposed structure.
2. (a) The applicant is requested to submit a site layout plan, to a suitable scale showing the location and scale of the proposed shed, details of any ancillary/associated works, and detailing the site boundaries of the subject site, vis-a-vis the adjacent residential site.

(b) The applicant is requested to submit a floor plan of the proposed structure to a suitable scale, detailing the internal layout and use(s) of the structure.
3. The applicant is requested to submit details of access arrangements to the proposed structure, if necessary, particularly having regard to the location of the shed to the rear of the adjacent dwelling. The applicant is advised to have regard to the restrictions on exempted development as set out under Article 9 of the Planning and Development Regulations 2001, as amended, to ensure that same will not endanger public safety by reason of traffic hazard or obstruction of road users.
4. The applicant is advised that the Planning Authority has concerns regarding potential unauthorised developments on site, including a polytunnel and shed, adjacent to the public road. The applicant is invited to clarify the planning history of same, noting that exempted development is precluded under article 9 if same is deemed to 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

District Planner:



Date: 05.01.2023

Senior Executive Planner:



Date: 08/01/2024

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e customerservice
@tipperarycoco.ie
tipperarycoco.ie

Date: 9 January 2024

Our Ref: S5/23/146

Civic Offices, Nenagh

**Naomi Morrissey,
Boulabeha,
Moyne,
Thurles,
Co. Tipperary
E41 V660**

Re: Construction of a shed/store (192sqm) at Boulabeha, Moyne, Co. Tipperary

Dear Ms Morrissey,

I refer to an application received from you on 4th December 2023 requesting a Declaration from this Planning Authority as to whether or not certain works constitute development within the meaning of the Planning and Development Act 2000, as amended.

Further information is requested as follows;

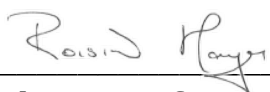
1. The applicant is requested to submit a detailed narrative setting out the proposed use of the proposed structure.
2. (a) The applicant is requested to submit a site layout plan, to a suitable scale showing the location and scale of the proposed shed, details of any ancillary/associated works, and detailing the site boundaries of the subject site, vis-a-vis the adjacent residential site.

(b) The applicant is requested to submit a floor plan of the proposed structure to a suitable scale, detailing the internal layout and use(s) of the structure.

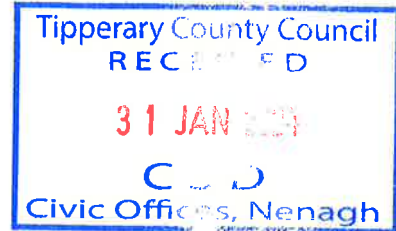
3. The applicant is requested to submit details of access arrangements to the proposed structure, if necessary, particularly having regard to the location of the shed to the rear of the adjacent dwelling. The applicant is advised to have regard to the restrictions on exempted development as set out under Article 9 of the Planning and Development Regulations 2001, as amended, to ensure that same will not endanger public safety by reason of traffic hazard or obstruction of road users.
4. The applicant is advised that the Planning Authority has concerns regarding potential unauthorised developments on site, including a polytunnel and shed, adjacent to the public road. The applicant is invited to clarify the planning history of same, noting that exempted development is precluded under article 9 if same is deemed to 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.

Further consideration of your request for a declaration cannot be considered until the above information is received.

Yours sincerely,



for **Director of Services**



Director of Services,
Planning Department
Tipperary County Council

Naomi Morrissey
Boulabeha, Moyne
Thurles, E41V660

Date 22/01/2024

Tipp Co Co Ref S5/23/146

Re: Construction of Shed/Store (192sqm) at Boulabeha, Moyne, Co. Tipperary.

Dear Director of Service.

In relation to the further information requested please find my responses:

1. Detailed Narrative setting out the Proposed use of the proposed structure: The proposed use of the structure is to house horses and is exempt from planning permission as is compliant with **Type 1 condition**: A roofed structure housing horses with a floor area does not exceeding 200 square metres and that the total
- 2 (a). A Site Layout plan with details of any ancillary/associated works and boundaries of subject site. Please find attached
- 2 (b). Floor plan of the proposed structure attached
- 3 Details of access arrangement – The proposed entrance is via the existing agricultural entrance out lined on the plans attached. The projected extra flow of traffic will be less than one movement per week, therefore having no impact on the existing traffic level.
- 4 Unauthorised structures and future use, these will be removed

I hope you find the above to your satisfaction

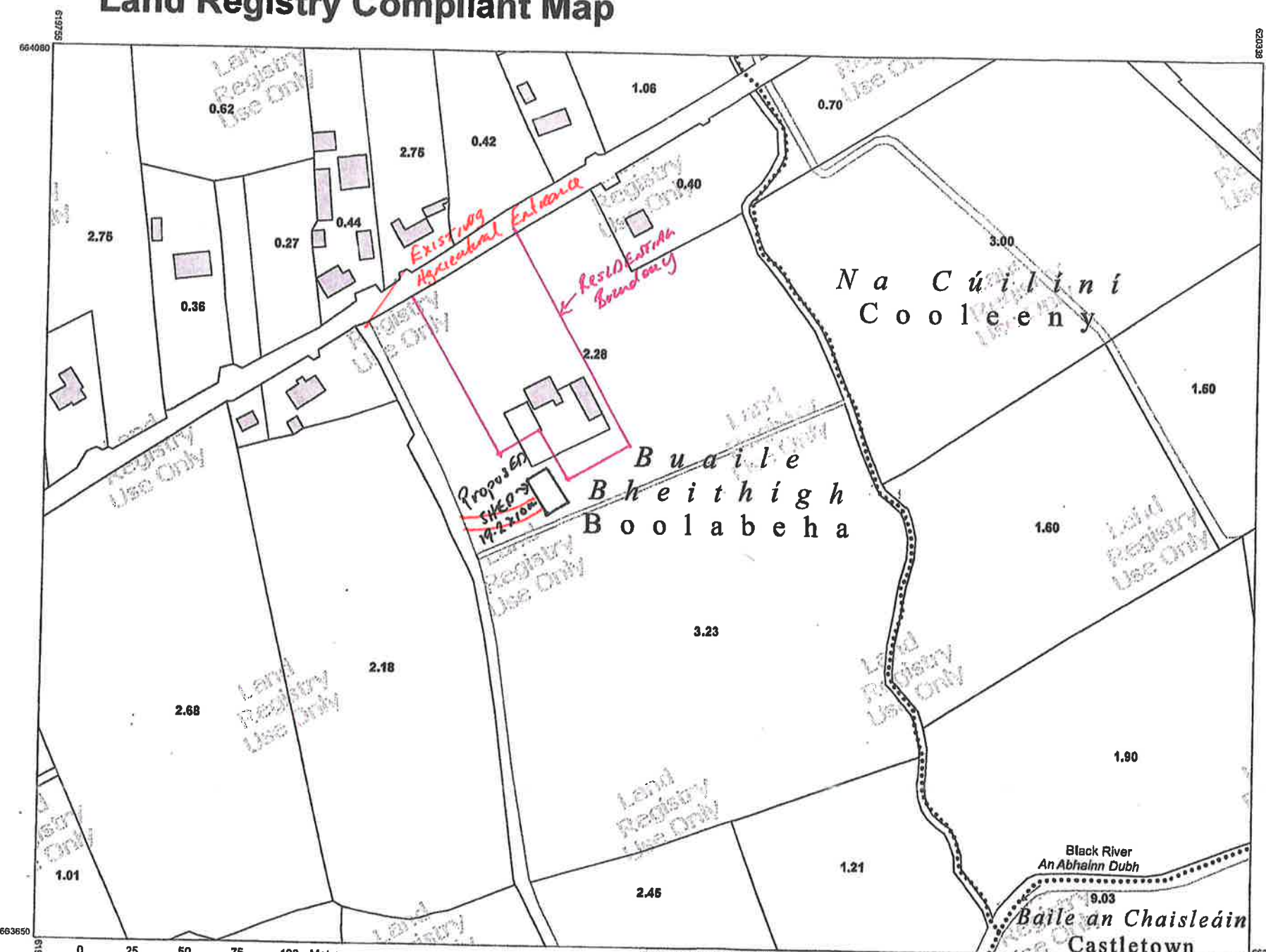
Kind Regards

Naomi Morrissey

Land Registry Compliant Map



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ITM 620047,663865

PUBLISHED: 20/10/2023
ORDER NO.: 50363900_1

MAP SERIES: 1:5,000
MAP SHEETS: 4578, 1:5,000, 4579

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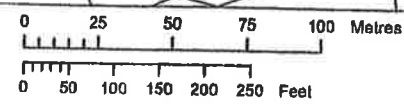
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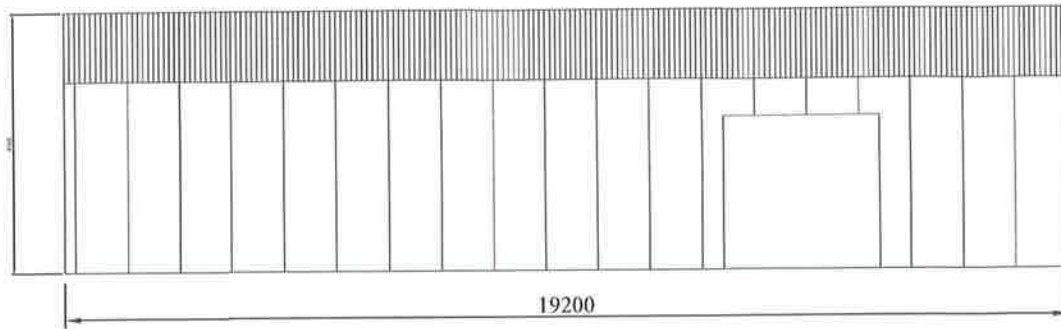
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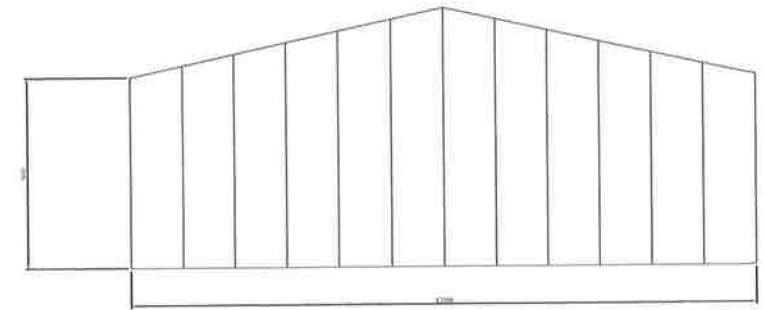


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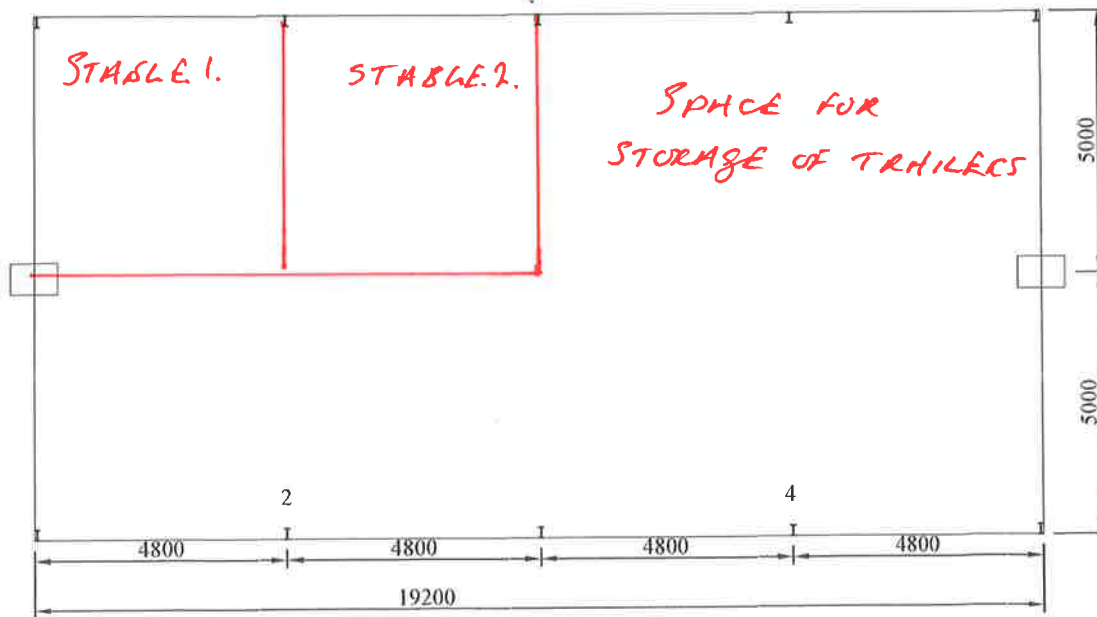
Proposed Barn And Livestock Unit At Moyne Thurles Co Tipperary



Side Elevation



End View



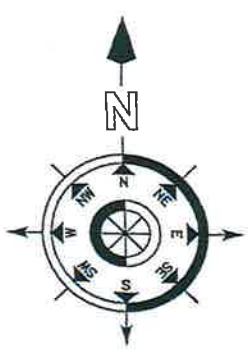
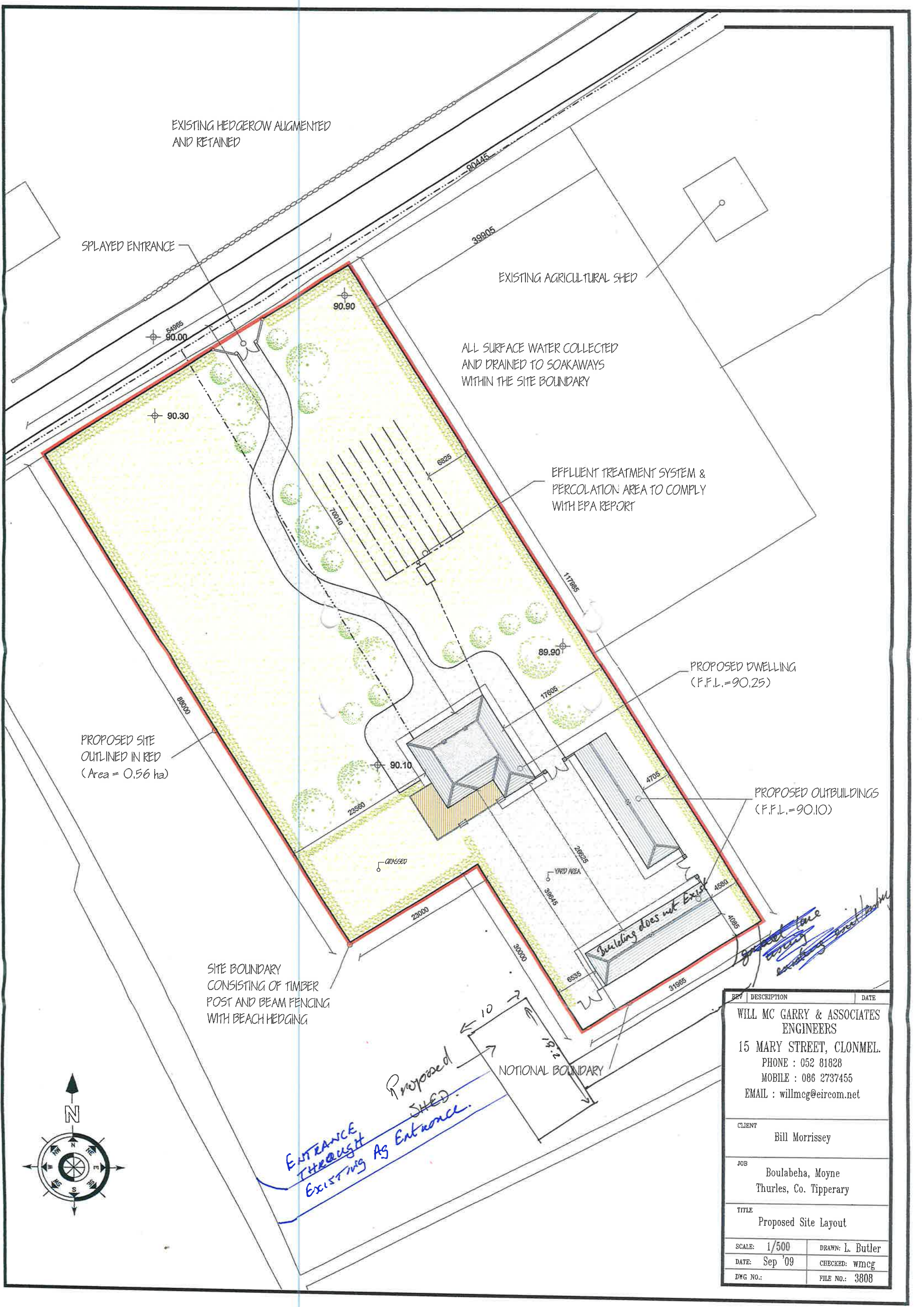
Floor Plan

~~Section Plan~~

NOTE

ALL BUILDING CONSTRUCTION, MATERIALS AND SPECIFICATIONS TO COMPLY WITH THE CURRENT BUILDING REGULATIONS AND THE DEPARTMENT OF THE ENVIRONMENT RECOMMENDATIONS.

BUILDER MUST BE REGISTERED WITH THE BUILDING GUARANTEE SCHEME N.H.B.G.S. HG6 GUARANTEE CERTIFICATE TO BE ISSUED TO CLIENT UPON COMPLETION. ALL WORK TO BE SUPERVISED AND PASSED BY SITE ENGINEER APPOINTED BY CLIENT



REV	DESCRIPTION	DATE
<p>WILL MC GARRY & ASSOCIATES ENGINEERS 15 MARY STREET, CLONMEL. PHONE : 052 81828 MOBILE : 086 2737455 EMAIL : willmcg@eircom.net</p>		
CLIENT		Bill Morrissey
JOB		Boulabeha, Moyne Thurles, Co. Tipperary
TITLE		Proposed Site Layout
SCALE:	1/500	DRAWN: L. Butler
DATE:	Sep '09	CHECKED: wmcg
DWG NO.:		FILE NO.: 3808



Comhairle Contae Thiobraid Árann
Tipperary County Council

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Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary

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Date: 31 January 2024

Our Ref: S5/23/146

Civic Offices, Nenagh

**Naomi Morrissey,
Boulabeha,
Moyne,
Thurles,
Co. Tipperary, E41 V660.**

**Re: Application for a Section 5 Declaration - Construction of a
shed/store (192sqm) at Boulabeha, Moyne, Co. Tipperary**

Dear Ms Morrissey,

I acknowledge receipt of Further Information received on 31st January 2024 in connection with the above.

I wish to advise that you will be notified of a decision on your application in due course.

Yours sincerely,


for **Director of Services**

TIPPERARY COUNTY COUNCIL
Application for Declaration under Section 5

Planning & Development Act 2000, as amended
Planning & Development Regulations 2001, as amended

Planning Ref.: S5/23/146
Applicant: Naomi Morrissey
Development Address: Boulabeha, Moyne, Co. Tipperary
Proposed Development: Construction of a shed/store (192sqm)

Note: application for Section 5 was received on 4th December, and a request for further information issued on 08.01.2024. a response was received on 31.01.2024 as set out below.

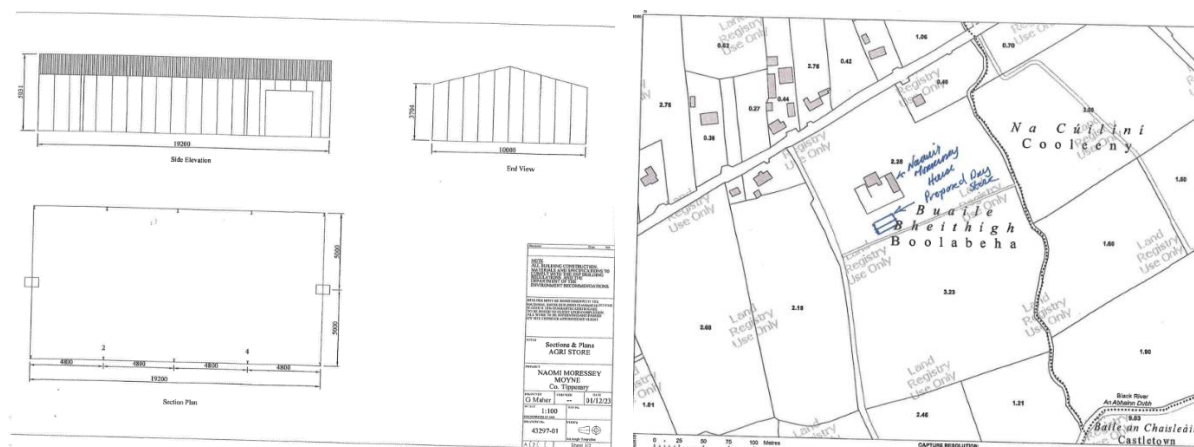
Original Report

1. GENERAL

On the 4th of December, 2023 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) by Naomi Morrissey as to whether or not the following constituted development and if so, whether same was exempted development:

- Planning Exemption Certificate under Class 9 for the construction of dry stores, sheds and glass-houses. The building is 192sqm. Its greater than 100m from any house (*other than my own*), it is greater than 100m from the public road and less than 5m high.

The documentation submitted with the application included a completed application form, a site location map and a side and end elevation, together with a section.



2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Section 3 (1) of the Planning and Development Act 2000, as amended, states as follows:-

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"In this Act, 'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land."

Section 2(1) of the Planning and Development Act, 2000, as amended, defines "works" as:-

"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.

Article 6 of the Planning and Development Regulations 2001, as amended states:

Exempted Development.

6. (1) Subject to article 9, development of a class specified in column 1 of Part 1 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 1 opposite the mention of that class in the said column 1.

(3) Subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), 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.

Article 9 of the Planning and Development Regulations 2001, as amended sets out restrictions on exemptions and states:

9. (1) 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—

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

(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,

CLASS 9 of Part 3 of Schedule 2 includes the following exemption;

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.

2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.

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3. No such structure shall be situated within 10 metres of any public road.
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

3. ASSESSMENT

a. Site Location

The proposed development is to be located to the rear of an existing dwelling, approximately 1.25km south-east of Moyne village. The site is located wholly within the residential site (as detailed on Land Registry) and partially within the residential site as denoted in the planning applications, noting different boundary details on same. Planning applications 09510659, 13511141 and 14510068 refer as set out below. The site currently accommodates a two-storey detached dwelling and a large outbuilding.

As set out above, the documentation submitted with the application included a completed application form, a site location map, and a side and end elevation, together with a cross section of the shed, however it is noted that the application does not include a site layout plan or floor plan. It is further noted that the application has not provided any details in relation to the proposed use of the shed.

b. Relevant Planning History

- | | |
|----------|--|
| 06511227 | Permission granted to William Joseph Cleary for a dwelling house, septic tank, entrance and all associated site works |
| 08511141 | Permission granted to Bill Morrissey for a dwelling house, entrance, driveway and all associated site development works (on the same site for which planning was granted for a house under reference no. 06511227) |
| 09510569 | Permission granted to Bill Morrissey for a change of house type, revised site boundaries, revised site layout and erection of out-buildings |
| 13510411 | Permission granted to Bill Morrissey for a change house type from that which was granted already under previous planning file reference no. 09/51/0569 and permission for a treatment system including all associated site development work |
| 14510068 | Permission granted to Bill Morrissey for an extension of duration on previously granted permission to change house type from that which was granted already under previous planning file reference no. 09/51/0569 and permission for a treatment system including all associated site development works - 13510411 |

Figure 1 Planning history – subject site shaded blue below.



c. **Assessment**

The proposal comprises the construction of a shed or store measuring 15.031m x 10m and to be constructed to a height of 5.031m (as per drawing no. 43297-01). It is noted that this drawing describes the development as an Agri-Store.

The proposed shed is set back in excess of 100m from the public road and from any third party residential properties or school, hospital, church or building used for public assembly.

It is noted that the proposed shed will not satisfy the exempted development criteria set out under Schedule 2, Part 1, Class 3 (Exempted Development – General – Development within the curtilage of a house).

It is further noted that the applicant has referenced Schedule 2, Part 3, Class 6 (Exempted Development – Rural – Agricultural Structures), however it appears that part of the shed will encroach on the residential site.

It is considered appropriate to request the applicant to submit a site layout plan in order to ascertain if the proposed development or ancillary works will encroach on the residential site.

As set out above the application has not provided any definitive details in relation to the proposed use of the shed - it is referenced as an agri store (on sections and plans drawing) and referenced as a dry store on the land registry compliant map. It is considered appropriate to request the applicant to submit such details.

- In the event that the proposed shed/store is for agricultural use, the applicant should be requested to clarify the extent of any potential ancillary works e.g. yard area, etc and to demonstrate how the proposed shed will be accessed.
- In the event that the proposed shed/store is for commercial use, the applicant should be requested to clarify the extent of the commercial operation.

It is noted that the residential site currently accommodates a large outbuilding granted under planning reference 09510569, presumably for uses associated with the dwelling on site.

It is further noted that the adjacent agricultural lands within the applicant's part of which are the subject of this application accommodates two no. structures comprising a polytunnel and a shed adjacent to the public road. It appears that such structures do not have the benefit of planning permission or are not exempt, given the proximity to the road.

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A) "Is or is not Development"

Having considered all of the details and documentation on file with regards the question asked the Planning Authority is satisfied that the proposals involve "works" and such works would constitute "development" within the meaning of Section 3 of the Act.

B) "Is or is not Exempted Development"

The subject site partially comprises a residential property with a dwelling and outbuilding. There is no evidence of other agricultural structures within the identified landholding. The area of this landholding is c. 5.24 hectares as per Land Registry details with the residential site measuring an additional 0.62ha.

The applicant is proposing to construct an agricultural storage shed and is intending to avail of the exemption under Schedule 2 Part 3 Class 9 of the Planning and Development Regulations 2001, as amended.

It is considered that the status of the existing site and the associated site boundaries is relevant in this case as same appears, at least partially, to function as an amenity space of a residential property. This is an important consideration having regard to RL.15.2235, in which An Bord Pleanála determined that the construction of an agricultural structure (for use as stables) within the curtilage of a dwelling house at Cornamucklagh, Omeath, County Louth was not exempted development as the development is located in the curtilage of a dwelling house and the exempted development provisions associated with a dwelling house do not include the development proposed.

C) Is the exemption restricted under Article 9 / are there any other restrictions that would apply.

As set out in Article 9, there are restrictions on exempted development if it is considered that the works will result in a traffic hazard. It is noted that applicant has not submitted any details in relation to the access to the proposed structure. Further information is required.

4. ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

Proposal has been screened as required for EIA and it has been determined that same is not required (See screening report attached).

5. APPROPRIATE ASSESSMENT (AA)

Proposal has been screened as required for AA and it has been determined that same is not required (See screening report attached).

6. FURTHER INFORMATION

Having reviewed the details submitted, Further Information was requested on the 9th January 2024 as follows;

1. The applicant is requested to submit a detailed narrative setting out the proposed use of the proposed structure.
2. (a) The applicant is requested to submit a site layout plan, to a suitable scale showing the location and scale of the proposed shed, details of any ancillary/associated works, and detailing the site boundaries of the subject site, vis-a-vis the adjacent residential site.

(b) The applicant is requested to submit a floor plan of the proposed structure to a suitable scale, detailing the internal layout and use(s) of the structure.
3. The applicant is requested to submit details of access arrangements to the proposed structure, if necessary, particularly having regard to the location of the shed to the rear of the adjacent dwelling. The applicant is advised to have regard to the restrictions on exempted development as set out under Article 9 of the Planning and

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Development Regulations 2001, as amended, to ensure that same will not endanger public safety by reason of traffic hazard or obstruction of road users.

4. The applicant is advised that the Planning Authority has concerns regarding potential unauthorised developments on site, including a polytunnel and shed, adjacent to the public road. The applicant is invited to clarify the planning history of same, noting that exempted development is precluded under article 9 if same is deemed to 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.

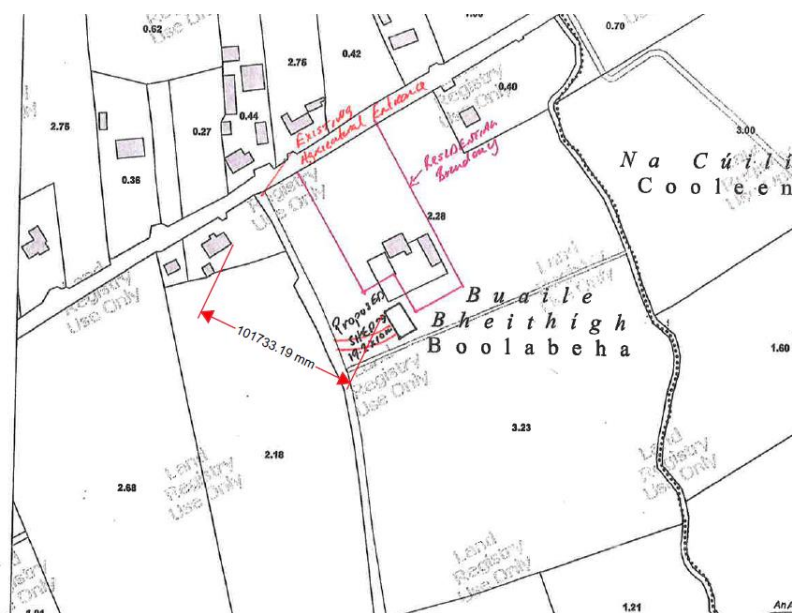
Response to Further Information Request received on 31.01.2023

1. The applicant is requested to submit a detailed narrative setting out the proposed use of the proposed structure.

The applicant has confirmed that the proposed use of the shed is for housing horses however the submitted floor plans includes for stables and storage space i.e. space for storage of trailers. The applicant contends that same is exempted development as it is a roofed structure for the housing of horses and has a floor area not exceeding 200sqm.

2. (a) The applicant is requested to submit a site layout plan, to a suitable scale showing the location and scale of the proposed shed, details of any ancillary/associated works, and detailing the site boundaries of the subject site, vis-a-vis the adjacent residential site.

The applicant has submitted a site layout plan showing the proposed shed to the rear of the existing dwelling, but outside of the residential site boundary. Having measured the distance, the Planning Authority is satisfied that the proposed shed is within 100m of the applicants dwelling however is in excess of 100m from any other house or other residential building (see drawing below) and is in excess of 10m from any public road.



- (b) The applicant is requested to submit a floor plan of the proposed structure to a suitable scale, detailing the internal layout and use(s) of the structure.

The applicant has submitted a floor plan showing an overall shed measuring 19.2m x 10m approximately to be constructed to a height of 5m showing an internal layout including 2 individual stables within the footprint of the shed. As set out above the balance of the floor area is shown to be for the storage of trailers.

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3. The applicant is requested to submit details of access arrangements to the proposed structure, if necessary, particularly having regard to the location of the shed to the rear of the adjacent dwelling. The applicant is advised to have regard to the restrictions on exempted development as set out under Article 9 of the Planning and Development Regulations 2001, as amended, to ensure that same will not endanger public safety by reason of traffic hazard or obstruction of road users.

The applicant has submitted a site layout plan showing the access to the site via an existing agricultural laneway which is within the applicant's landholding (as per Land Direct/Land registry maps). The laneway is evident on historic 25' maps and therefore predates planning legislation.

4. The applicant is advised that the Planning Authority has concerns regarding potential unauthorised developments on site, including a polytunnel and shed, adjacent to the public road. The applicant is invited to clarify the planning history of same, noting that exempted development is precluded under article 9 if same is deemed to 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.

The applicant has confirmed that the unauthorised structures on site will be removed.

1. Assessment of Further Information

a) "Is or is not Development"

It is considered that the above listed proposals constitute "works" as understood by the Planning and Development Act 2000, as amended. The above listed proposals therefore constitute "development" within the meaning of the Planning and Development Act 2000, as amended.

b) "Is or is not Exempted Development"

The proposal comprises the construction of a shed which the applicant contends is exempted development as it is a 'Roofed Structure housing horses with a floor area does not exceed 200sqm....'

The Planning Authority notes

<p>Agricultural Structures CLASS 6</p> <p>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.</p>	<ol style="list-style-type: none"> 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
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	<p>requirements and shall have regard to the need to avoid water pollution.</p> <p>4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.</p> <p>5. No such structure within 100 metres of any public road shall exceed 8 metres in height.</p> <p>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.</p> <p>7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</p>
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The proposal comprises the construction of a shed measuring 15.031m x 10m and to be constructed to a height of 5.031m (as per drawing no. 43297-01). The applicant has stated that the shed is to be used for the housing of horses shed. It is noted that the drawings describe the structure as a 'proposed barn and livestock unit' and the floor plan states that same will be used for the storage of trailers as well as the stables.

Having reviewed the available exemptions I note that Class 6 provides for a roofed structure for the housing of animals whilst Class 9 provides for a roofed structure for use as a store, barn, shed etc.

I note no exemption which provides for both the housing of animals and storage.

Therefore it is considered that the proposal is not exempted development.

C) Is the exemption restricted under Article 9 / are there any other restrictions that would apply.

Not applicable as proposal is not exempted.

2. ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

Proposal has been screened as required for EIA and it has been determined that same is not required (See screening report attached).

3. APPROPRIATE ASSESSMENT (AA)

Proposal has been screened as required for AA and it has been determined that same is not required (See screening report attached).

4. RECOMMENDATION

Having regard to:

- (a) Sections 2 & 3 of the Planning and Development Act 2000, as amended,
- (b) Class 6 and Class 9, of Part 3 of Schedule 2 of the Planning & Development Regulations 2001, as amended
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended, and

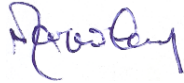
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- (d) The details and documentation submitted by the applicant, in particular noting that the structure is to be used for the housing of horses and as a store,

Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, constitutes “works” and “development” within the meaning of the Planning and Development Act 2000, as amended, and is NOT “exempted development” as the proposal does not fall under any Class set out under Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

District Planner:



Date: 19.02.2023



Senior Executive Planner:

Date: 19.02.2024

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TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/23/146** **Delegated Employee's Order No:** _____

SUBJECT: Section 5 Declaration

I, Sharon Kennedy, Director of Services, Tipperary County Council, by virtue of the powers delegated to me in accordance with the provisions of Section 154 of the Local Government Act 2001, as amended by Schedule 1, Part 1 of the Local Government Reform Act 2014 under Chief Executive's Order No. 36275 dated 4th December, 2023, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Naomi Morrissey, Boulabea, Moyne, Thurles, Co. Tipperary, E41 V660, re: Construction of a shed/store (192sqm) at Boulabea, Moyne, Co. Tipperary is development and is exempted development.

AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly to –

- (a) Sections 2 & 3 of the Planning and Development Act 2000, as amended,
- (b) Class 6 and Class 9, of Part 3 of Schedule 2 of the Planning & Development Regulations 2001, as amended
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended, and
- (d) The details and documentation submitted by the applicant, in particular noting that the structure is to be used for the housing of horses and as a store,

Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, **constitutes "works" and "development"** within the meaning of the Planning and Development Act 2000, as amended, **and is NOT "exempted development"** as the proposal does not fall under any Class set out under Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

Signed:



**Sharon Kennedy
Director of Services**

Planning and Development (including Town Centre First and Just Transition), Emergency Services and Emergency Planning and Tipperary/Cahir/Cashel Municipal District

Date: 20/02/2024



Date: 20 February 2024

Our Ref: S5/23/146

Civic Offices, Nenagh

**Naomi Morrissey,
Boulabeha,
Moyne,
Thurles,
Co. Tipperary, E41 V660.**

Re: Declaration under Section 5 of the Planning and Development Act 2000

Dear Ms Morrissey,

I refer to your application for a Section 5 Declaration received on 4th Decemeber 2023 and 31st January 2024, in relation to the following proposed works:

Construction of a shed/store (192sqm) at Boulabeha, Moyne, Co. Tipperary.

WHEREAS a question has arisen as to whether the proposed development is or is not exempted development:

AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly to –

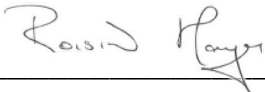
- (a) Sections 2 & 3 of the Planning and Development Act 2000, as amended,
- (b) Class 6 and Class 9, of Part 3 of Schedule 2 of the Planning & Development Regulations 2001, as amended
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended, and
- (d) The details and documentation submitted by the applicant, in particular noting that the structure is to be used for the housing of horses and as a store,

Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, **constitutes "works" and "development"** within the meaning of the Planning and

Development Act 2000, as amended, **and is NOT "exempted development"** as the proposal does not fall under any Class set out under Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

NOTE: Any person issued with a Declaration of a Planning Authority may refer the Declaration for review to An Bord Pleanála, 64 Marlborough Street, Dublin 1, within four (4) weeks of the date of issue of the Declaration and on payment of the prescribed fee.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Róisín Hynes", written in black ink.

for **Director of Services**