



PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

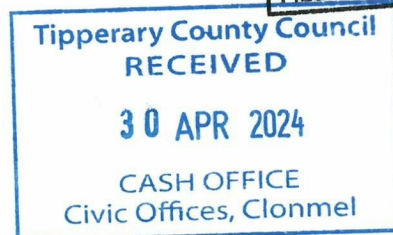
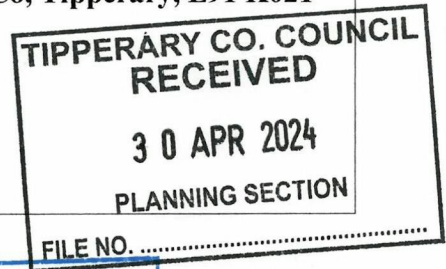
Applicant	Mary-Clare Race
Address	Brookhill, Evardsgrange, Fethard, Co, Tipperary, E91 K021
Telephone No.	N/A
E-mail	N/A

2. Agent's (if any) address:

Agent	Niall Montgomery + Partners Architects + Landscape Architects
Address	33 Rock Road, Williamstown, Blackrock, Co. Dublin. A94N5Y3
Telephone No.	00353862432175
E-mail	james@nmp.ie
Please advise where all correspondence in relation to this application is to be sent;	
Agent <input checked="" type="checkbox"/>	

3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	Brookhill, Evardsgrange, Fethard, Co, Tipperary, E91 K021
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Receipt No 130 911
€ 80.00 Charge
30 04 2024

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.)

<p>Brookhill is a family residence that sits on 14 acres of farmland. The main house is noted in the Tipperary C.C. List of Protected Structures, under RPS S1060 and in the NIAH 22207005.</p> <p>The Protected Structure, is the three-bay two-storey main house, built c. 1800. Attached to the main house is a rear two storey converted stable building and attached on the south side is a single storey converted stable building. Both converted buildings form part of the main residence.</p> <p>The rear two storey stable building noted above , together with the main house, the south wing and a detached two storey stable building form a very attractive rear courtyard.</p> <p>On the south side of the courtyard there is a haggard area flanked by single storey outbuildings on the west side and on the north side the detached two storey stable building referred to above.</p> <p>See existing layout drawings enclosed with this submission.</p> <p>The client wishes to create an outer courtyard, in this haggard area, by constructing a single storey stable building on the south side.</p> <p>The proposed stable building will be located well away from the Protected Structure having minimum visual impact on it. For clarity the Protected Structure, is outlined in red on the enclosed drawings.</p> <p>See proposed layout drawings enclosed with this submission.</p> <p>The clients are seeking an exemption under Section 5, of the Planning and Development Act, to construct the stable building.</p> <p>Attached for your attention is the OS Map showing the site location, site layouts and elevations of the existing buildings and the proposed and proposed layout drawings from the bespoke stable building providers.</p>	
Proposed floor area of proposed stables	156 sqm

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

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

Signature of Agent

Date: 26-04-2024

James Montgomery

Niall Montgomery + Partners Architects + Landscape Architects

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	<u>OR</u>	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
<u>DATE STAMP</u>
Fee Recd. € _____
Receipt No _____
Date _____
Received by _____

13A2D (Akm)

Senior Executive Officer,
Planning Section,
Tipperary County Council,
Civic Offices,
Emmet Street,
Clonmel, Co. Tipperary.
E91 N512

Application for a Section 5 Declaration for a Development at Brookhill, Fethard, Co. Tip, E91 K021

Dear Sir / Madam,

An Application for an exemption for a proposed stable building is applied for under Section 5 of the Planning and Development Act.

Two copies of the NMP Section 5 Submission are attached for your attention together with the requisite fee of €80.00 .

Any queries arising please revert.

Yours truly,

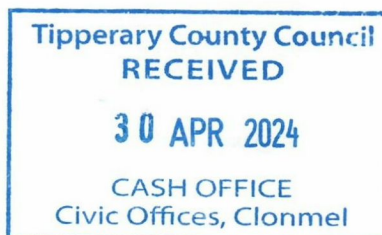
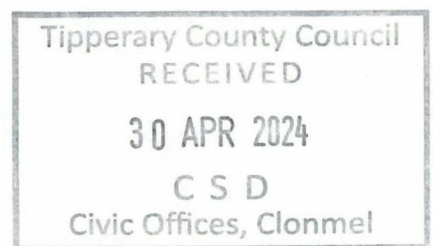
James Montgomery

James Montgomery

For

Niall Montgomery and Partners, Architects and Landscape Architects.

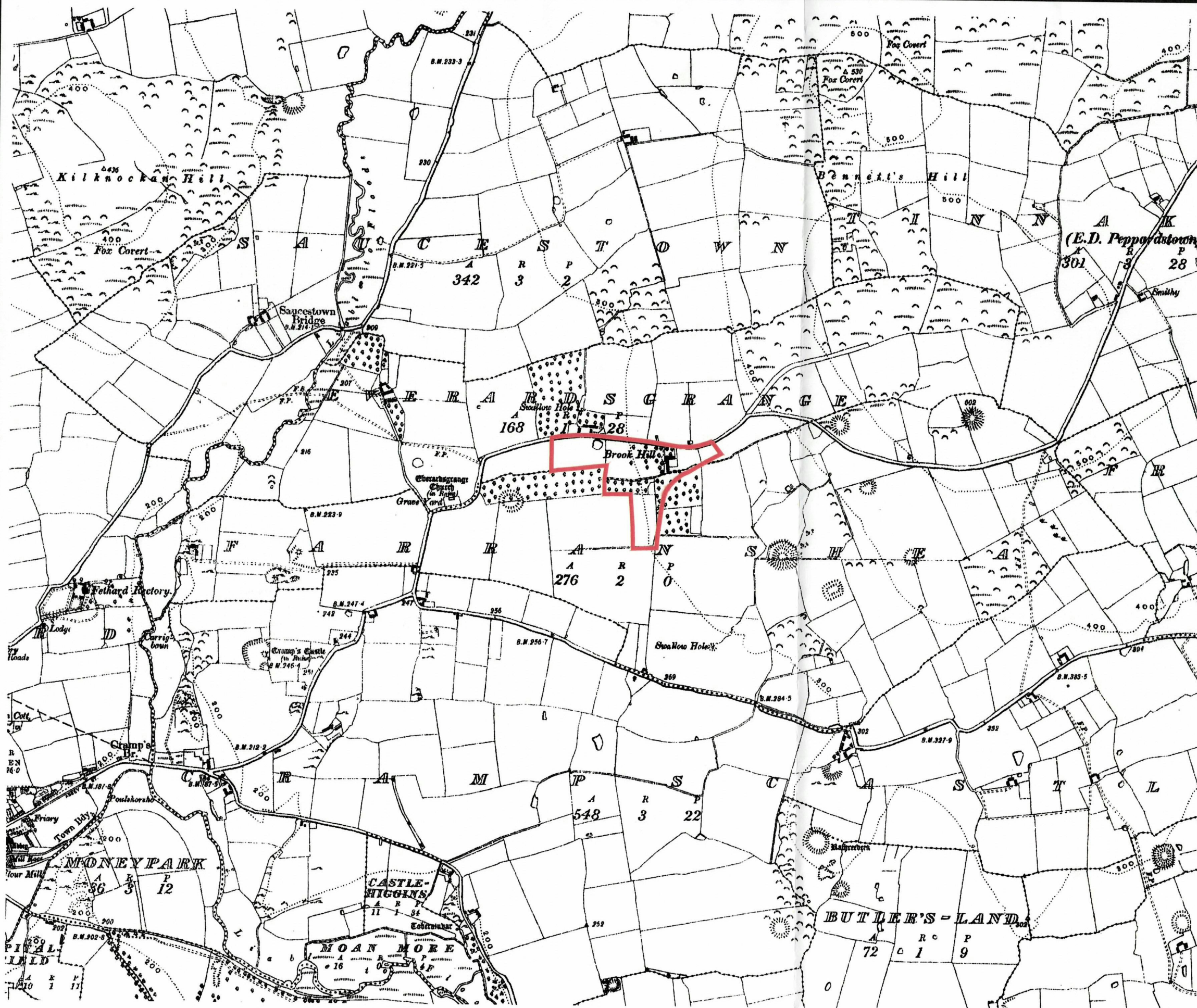
Attachments
€80.00 Fee,
Section 5 Submission Form (2 copies)
Survey Drawings 5 no (2 copies)
Proposal Drawings 3 no (2 copies)
Stable Block Proposal Drwgs 2 no (2 copies)



Jm/jm

26 April 2024





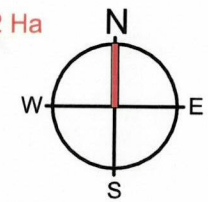
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NOTE: ALL DIMENSIONS AND LEVELS ARE APPROXIMATE ONLY AND ARE TO BE CONFIRMED BY SITE MEASUREMENT

SITE MAP EXTRACT, BY PERMISSION OF THE ASSISTANT DIRECTOR FROM ORDNANCE SURVEY SHEET = 1:2,500 | 5185-B, 1:2,500 | 5124-D COORDINATES: X,Y= 622714.5778,636011.2175 LICENCE NO. 0004724

Area of Site Outlined In Red:
55274 m² / 13.65 ACRES / 5.52 Ha



OS MAP

REFERENCE: THIS DRAWING IS NOT FOR CONSTRUCTION

Description	Date	By
01 First Issue for Section 5 Planning	17/04/2024	OGW

REVISIONS:

Job No.	5 P 8 F	Drawings	OS MAP
Dwg No.	Aa1 P 1	Date	17/04/2024
Scale	1:10,500 @ A3	By	FOB

JOB DESCRIPTION

Site	BROOKHILL, FETHARD, CO. TIPPERARY
Project	SITE EQUINE DEVELOPMENT
Title	OS MAP RURAL PLACE MAP

01 OS MAP
Scale 1:10,500 @ A3



NMP
Niall Montgomery + Partners

Architects 33 Rock Road, Williamstown, Blackrock, Co. Dublin
Telephones : 2121 800 Fax :2121 007 E mail : info@nmp.ie



LAYOUT AND ELEVATIONS
ALL DIMENSIONS ARE APPROXIMATE

NOT TO BE USED FOR CONSTRUCTION
ASSEMBLED ON PREPARED BASE
(SEE SEPARATE DRAWING)

SCOTTS PRESSURE TREATED FEATHEREDGE BOARDING

STAIN: NONE

FRAMING: 36mm x 72mm
30° ROOF



A	Initial Issue	KP	29.02.24
	Issue Description	Drawn	Date



SCOTTS OF THRAPSTON LTD
BUILDINGS DIVISION
Bridge Street
Thrapston
Northants
NN14 4LR

E: info@scottsofthrapston.co.uk T: 01832 732366
W: www.scottsofthrapston.co.uk F: 01832 733703

Client:
MARY CLARE

Project:
STABLE

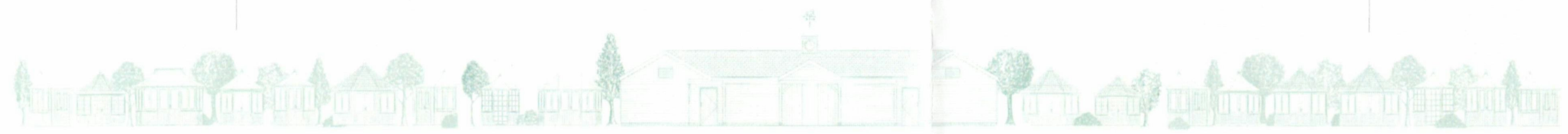
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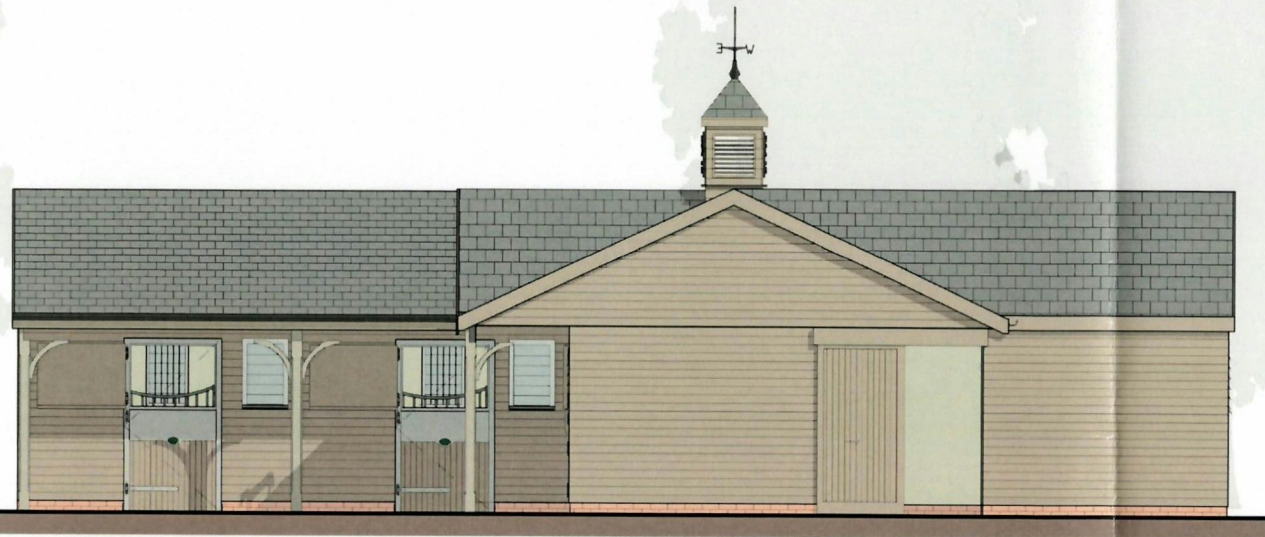
Status:
PRELIMINARY

Scale (@ A1): 1 : 50 Drawn by: KP Checked: RJ Date: 29/02/24

Drawing Number: 07558-01-LES Rev A

File Path:
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1 Elevation A
 ISO-07558 1:50



2 Elevation B
 ISO-07558 1:50



3 Elevation C
 ISO-07558 1:50



4 Elevation D LE
 ISO-07558 1:50

B	WASH BAY	KP	14.03/24
A	Initial Issue	KP	29.02/24
Issue Description		Drawn	Date



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 BUILDINGS DIVISION
 Bridge Street
 Thrapston
 Northants
 NN14 4LR

E: info@scottsofthrapston.co.uk T: 01832 732366
 W: www.scottsofthrapston.co.uk F: 01832 733703

Client:
 MARY CLARE

Project:
 STABLE

Drawing Title:
ELEVATIONS

Status:
PRELIMINARY

Scale (@ A1): 1:50 Drawn by: KP Checked by: RJ Date: 29/02/24

Drawing Number: ISO-07558 Rev: B

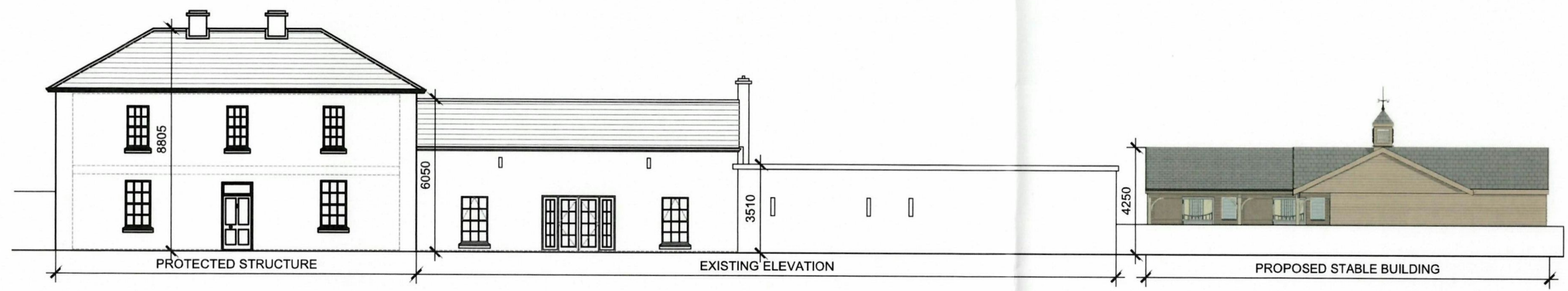
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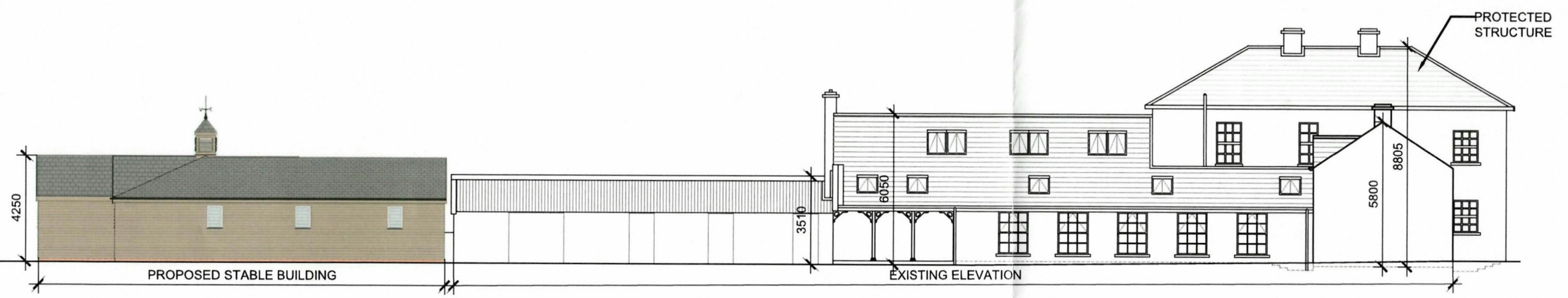
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01 PROPOSED WEST ELEVATION
Scale 1:200 @ A3



02 PROPOSED EAST ELEVATION
Scale 1:200 @ A3

PROPOSAL SECTION 5 PLANNING

REFERENCE: THIS DRAWING IS NOT FOR CONSTRUCTION

Description	Date	By
01 First Issue for Section 5 Planning	17/04/2024	OGW

REVISIONS:

Job No.	5 P 8 F	Drawings	ELEVATIONS
Dwg No.	Aa2 E 2	Date	17/04/2024
Scale	1:200 @ A3	By	FOB + OGW

JOB DESCRIPTION

Site	BROOKHILL, FETHARD, CO. TIPPERARY
Project	SITE ----- EQUINE DEVELOPMENT
Title	SECTION 5 PLANNING ----- ELEVATIONS



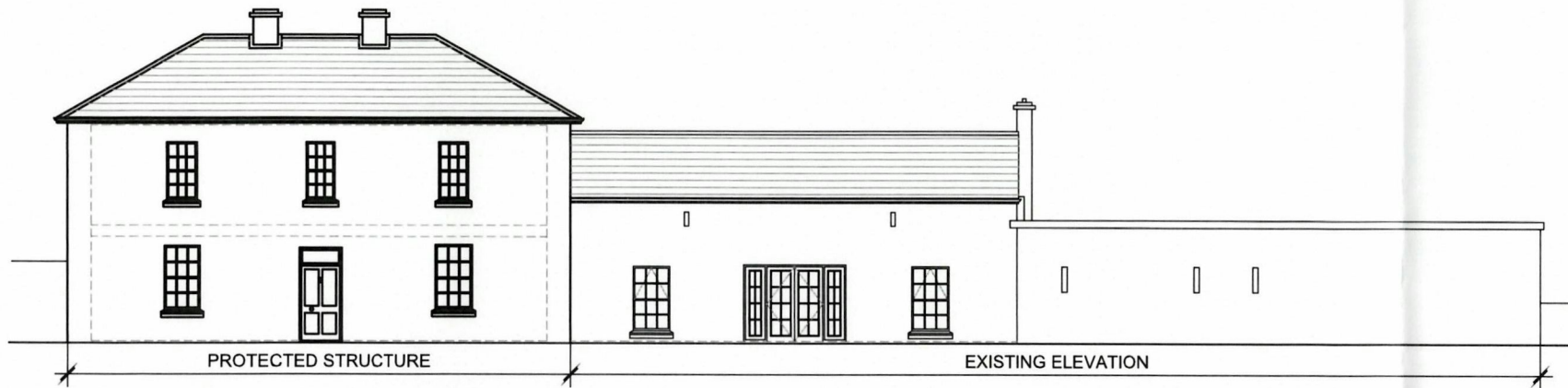
NMP
Niall Montgomery + Partners

Architects 33 Rock Road, Williamstown, Blackrock, Co. Dublin
Telephones : 2121 800 Fax :2121 007 E mail : info@nmp.ie

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01 EXISTING WEST ELEVATION

Scale 1:200 @ A3



02 EXISTING EAST ELEVATION

Scale 1:200 @ A3

SURVEY

REFERENCE: THIS DRAWING IS NOT FOR CONSTRUCTION

Description	Date	By
01 First Issue for Section 5 Planning	17/04/2024	OGW

REVISIONS:

Job No.	5 P 8 F	Drawings	EXISTING ELEVATIONS
Dwg No.	Aa1 P 1	Date	17/04/2024
Scale	1:200 @ A3	By	FOB + OGW

JOB DESCRIPTION

Site	BROOKHILL, FETHARD, CO. TIPPERARY
Project	SITE ----- EQUINE DEVELOPMENT
Title	SECTION 5 PLANNING ----- EXISTING ELEVATIONS



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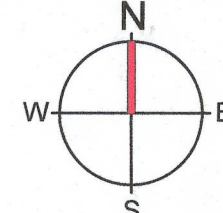
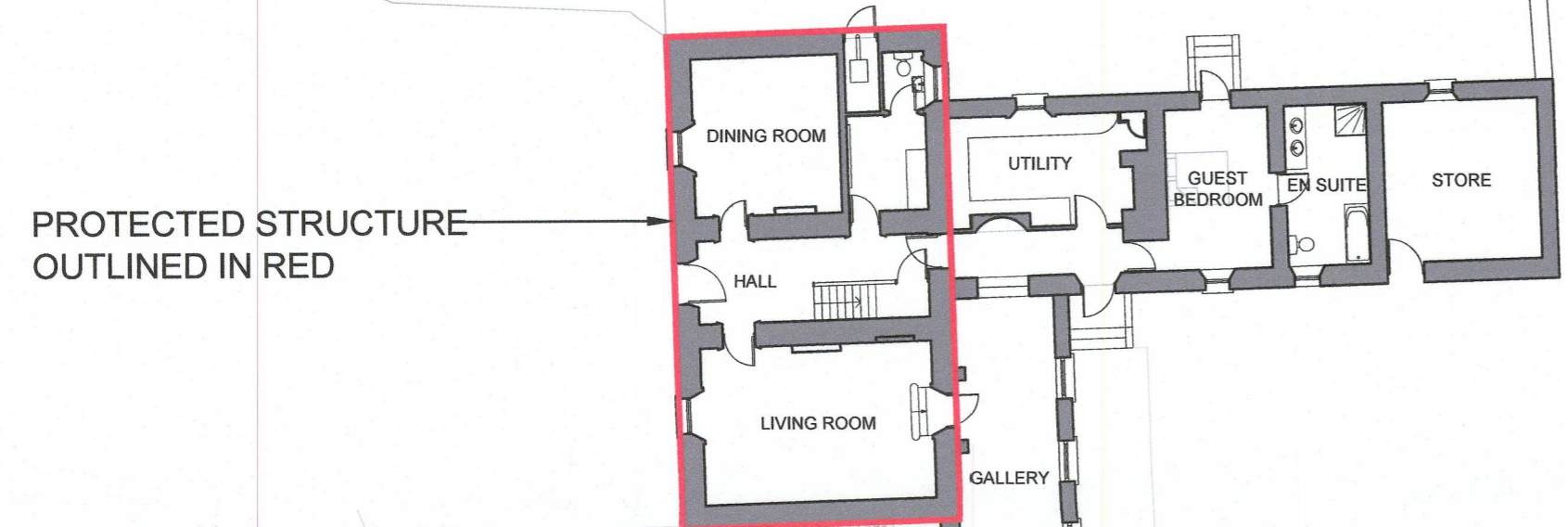
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LEGEND

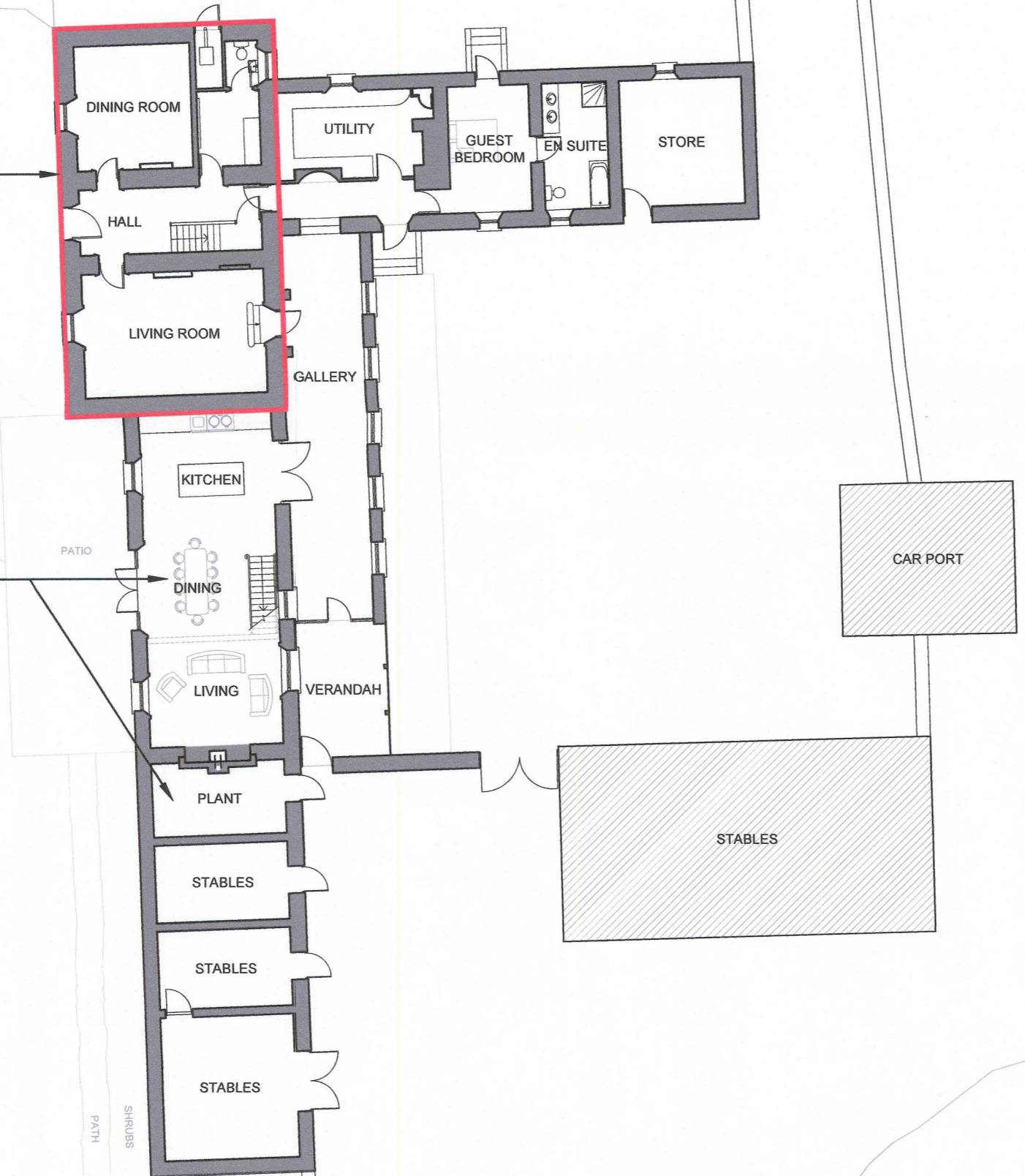
--- SITE BOUNDARY

--- PROTECTED STRUCTURE OUTLINED IN RED

PROTECTED STRUCTURE OUTLINED IN RED

EXISTING BUILDING LAYOUT



GRASS

HUXY STABLES

SURVEY

REFERENCE: THIS DRAWING IS NOT FOR CONSTRUCTION


Description	Date	By
01 First Issue for Section 5 Planning	17/04/2024	OGW

REVISIONS:

Job No.	5 P 8 F	Drawings	EXISTING SITE LAYOUT & FLOOR PLANS
Dwg No.	Aa1 P 3	Date	17/04/2024
Scale	1:200 @ A2	By	FOB + OGW

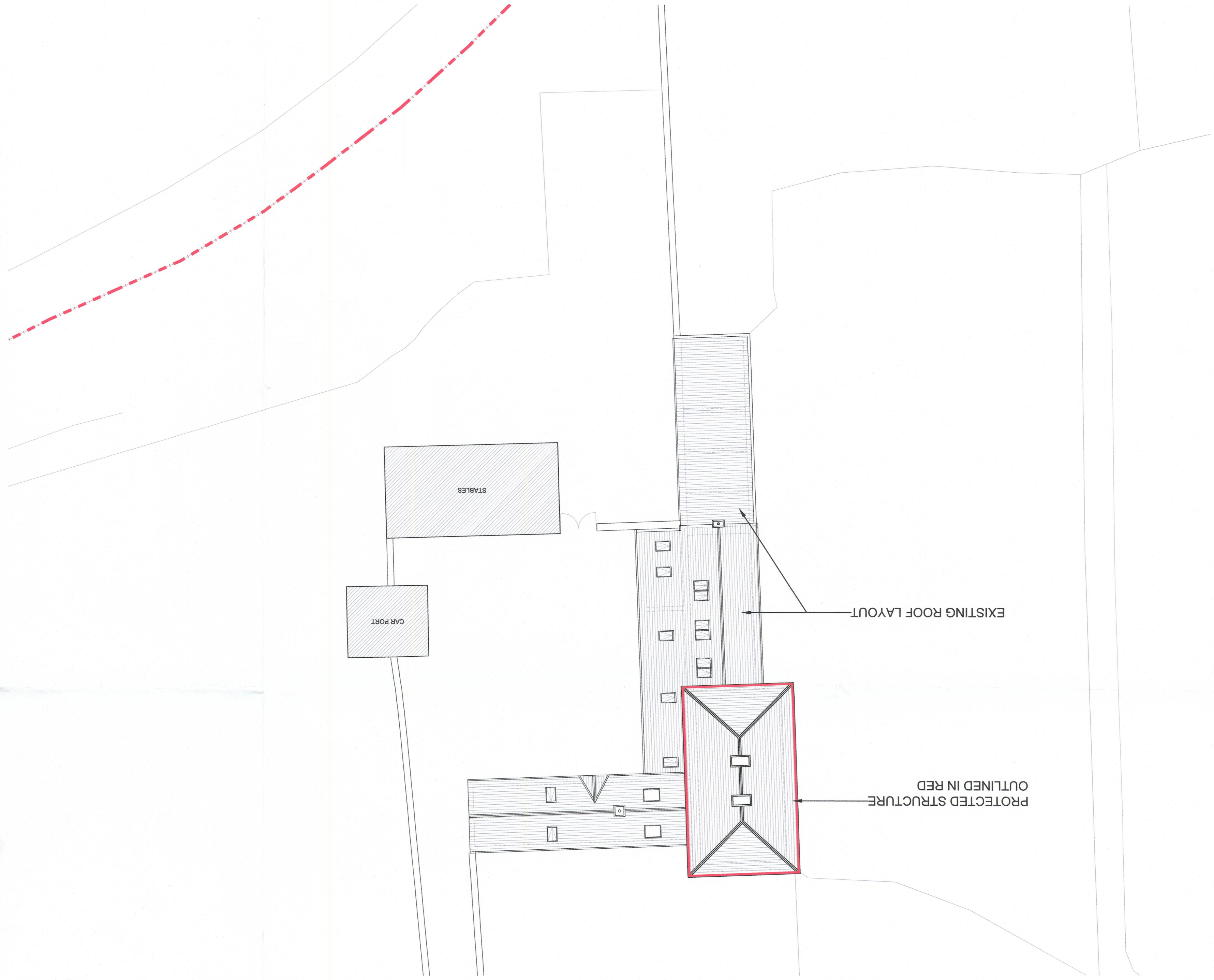
JOB DESCRIPTION

Site	BROOKHILL, FETHARD, CO. TIPPERARY
Project	SITE ----- EQUINE DEVELOPMENT
Title	SECTION 5 PLANNING ----- EXISTING SITE LAYOUT & GROUND FLOOR PLAN



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EXISTING ROOF LAYOUT

PROTECTED STRUCTURE
OUTLINED IN RED

STABLES

CAR PORT

NMP
Niall Montgomery + Partners
Architects 33 Rock Road, Williamstown, Blackrock, Co. Dublin
Telephones : 2121 800 Fax : 2121 007 E mail : info@nmp.ie

Site	BROOKHILL, FETHARD, CO. TIPPERARY
Project	SITE EQUINE DEVELOPMENT
Title	SECTION 5 PLANNING EXISTING SITE LAYOUT & ROOF LAYOUT

JOB DESCRIPTION

Job No.	5 P 8 F	Drawings	FLOOR PLANS
Dwg No.	Aa1 P 3	Date	17/04/2024
Scale	1:200 @ A2	By	FOB + OGW

REVISIONS:

Description	Date	By
01 First Issue for Section 5 Planning	17/04/2024	OGW

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SURVEY

LEGEND

— SITE BOUNDARY

— PROTECTED STRUCTURE

— OUTLINED IN RED

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PUBLISHER / SOURCE:
ORDNANCE SURVEY IRELAND (OSI)

DATA SOURCE / REFERENCE:
PRIME2

FILE FORMAT:
AUTODESK AUTOCAD (DWG_R2013)

FILE NAME:
V_50381941_1.DWG

CLIP EXTENT / AREA OF INTEREST (AOI):
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LRX,LRY= 623129.5778,635703.7175
ULX,ULY= 622299.5778,636318.7175
URX,URY= 623129.5778,636318.7175

PROJECTION / SPATIAL REFERENCE:
PROJECTION=
IRENET95_IRISH_TRANSVERSE_MERCATOR

CENTRE POINT COORDINATES:
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REFERENCE INDEX:
MAP SERIES | MAP SHEETS
1:2,500 | 5185-B
1:2,500 | 5124-D

DATA EXTRACTION DATE:
DATE= 08-FEB-2024

SOURCE DATA RELEASE:
DCMLS RELEASE V1.172.117

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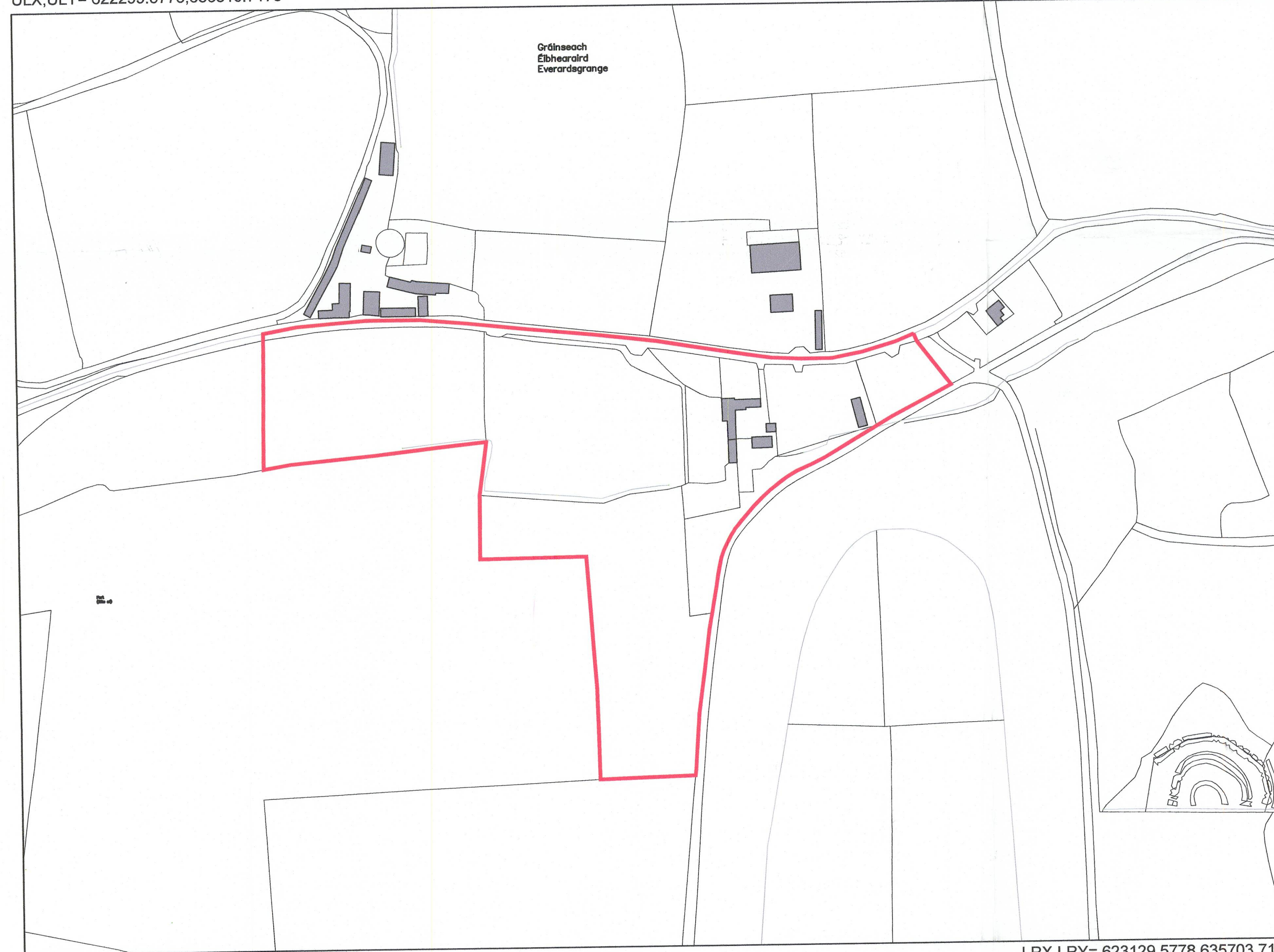
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ULX,ULY= 622299.5778,636318.7175

URX,URY= 623129.5778,636318.7175



LLX,LLY= 622299.5778,635703.7175

LRX,LRY= 623129.5778,635703.7175

01 OS MAP
Scale 1:2500 @ A2

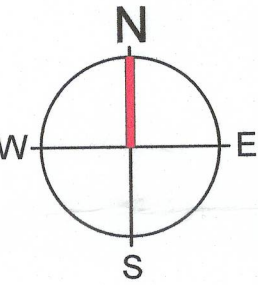
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Area of Site Outlined In Red:
55274 m² / 13.65 ACRES / 5.52 Ha



SURVEY

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01 First Issue for Section 5 Planning	17/04/2024	OGW

REVISIONS:

Job No.	5 P 8 F	Drawings	OS MAP
Dwg No.	Aa1 P 2	Date	17/04/2024
Scale	1:2500 @ A2	By	FOB

JOB DESCRIPTION

Site	BROOKHILL, FETHARD, CO. TIPPERARY
Project	SITE EQUINE DEVELOPMENT
Title	OS MAP SITE LOCATION



NMP
Niall Montgomery + Partners





Architects 33 Rock Road, Williamstown, Blackrock, Co. Dublin
Telephones : 2121 800 Fax : 2121 007 E mail : info@nmp.ie

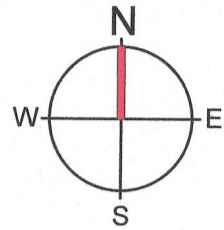
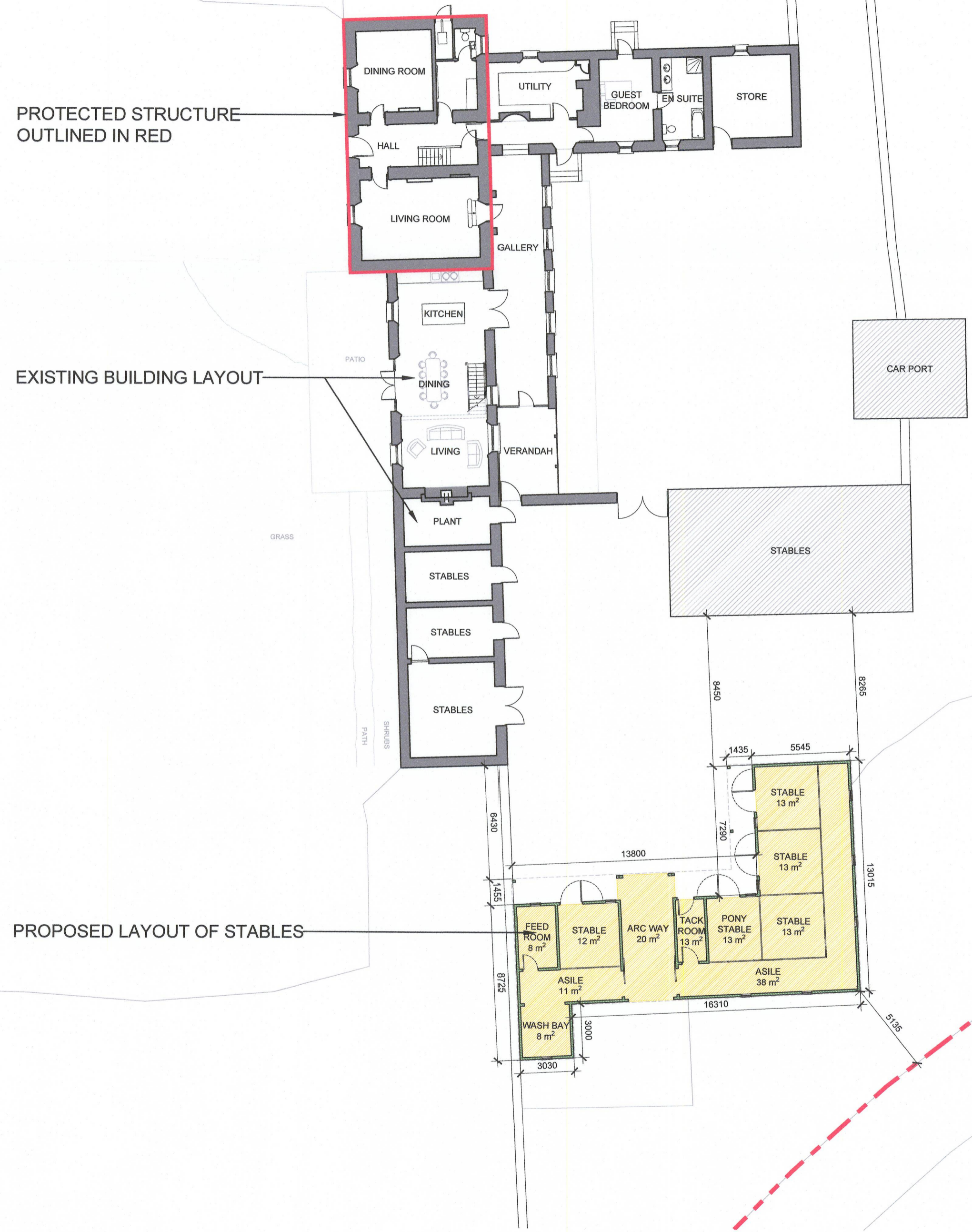
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LEGEND

-  SITE BOUNDARY
-  PROTECTED STRUCTURE OUTLINED IN RED
-  PROPOSED STABLES BUILDING LAYOUT
-  PROPOSED WALLS FOR PROPOSED STABLES

PROPOSAL SECTION 5 PLANNING

REFERENCE: THIS DRAWING IS NOT FOR CONSTRUCTION


Description	Date	By
01 First Issue for Section 5 Planning	17/04/2024	OGW

REVISIONS:

Job No.	5 P 8 F	Drawings	SITE LAYOUT & FLOOR PLANS
Dwg No.	Aa2 P 3	Date	17/04/2024
Scale	1:200 @ A2	By	FOB + OGW

JOB DESCRIPTION

Site	BROOKHILL, FETHARD, CO. TIPPERARY
Project	SITE EQUINE DEVELOPMENT
Title	SECTION 5 PLANNING SITE LAYOUT & GROUND FLOOR PLAN



NMP
Niall Montgomery + Partners




Architects 33 Rock Road, Williamstown, Blackrock, Co. Dublin
Telephones : 2121 800 Fax :2121 007 E mail : info@nmp.ie

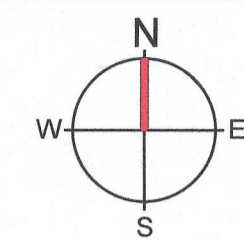
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NOTE: DRAWINGS PREPARED FOR PLANNING APPLICATION PURPOSES ONLY UNDER THE LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACT 2000 AND REGULATIONS 2001 AND NOT TO BE USED FOR CONSTRUCTIONAL PURPOSES

NOTE: ALL DIMENSIONS AND LEVELS ARE APPROXIMATE ONLY AND ARE TO BE CONFIRMED BY SITE MEASUREMENT

LEGEND

-  SITE BOUNDARY
-  PROTECTED STRUCTURE OUTLINED IN RED
-  ROOF PLAN FOR PROPOSED STABLES



PROTECTED STRUCTURE OUTLINED IN RED

EXISTING ROOF LAYOUT

PROPOSED ROOF LAYOUT OF STABLES

CAR PORT

STABLES

PROPOSAL SECTION 5 PLANNING

REFERENCE: THIS DRAWING IS NOT FOR CONSTRUCTION

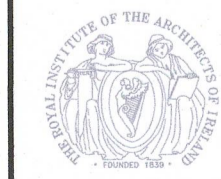
Description	Date	By
01 First Issue for Section 5 Planning	17/04/2024	OGW

REVISIONS:

Job No.	5 P 8 F	Drawings	SITE LAYOUT & FLOOR PLANS
Dwg No.	Aa2 P 4	Date	17/04/2024
Scale	1:200 @ A2	By	FOB + OGW

JOB DESCRIPTION

Site	BROOKHILL, FETHARD, CO. TIPPERARY
Project	SITE EQUINE DEVELOPMENT
Title	SECTION 5 PLANNING SITE LAYOUT & ROOF LAYOUT



NMP
Niall Montgomery + Partners

Architects 33 Rock Road, Williamstown, Blackrock, Co. Dublin
Telephones : 2121 800 Fax :2121 007 E mail : info@nmp.ie



Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
Thiobraid Árann,
Oifigi Cathartha,
Cluain Meala,
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Date: 8th May 2024

Our Ref: S5/24/53

Civic Offices, Clonmel

Mary-Clare Race
C/o Niall Montgomery & Partners
Architects & Landscape
33 Rock Road, Williamstown
Blackrock, Co. Dublin
A94N5Y3

Re: Application for a Section 5 Declaration – the construction of a single storey stable building on the south side at Brookhill, Evardsgrange, Fethard, Co. Tipperary, E91K021.

Dear Sir/Madam,

I acknowledge receipt of your application for a Section 5 Declaration received on 30th April, 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 faithfully

For Director of Services

Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

Declaration Reference No.: S5/24/53

Query: Whether the construction of a single storey stable building adjacent to a dwelling in Brookhill (which is a protected structure) constitutes exempted development.

Location: Brookhill, Evardsgrange, Fethard, Co. Tipperary, E91K021

Querist: Niall Montgomery + Partners.

Owner/Occupier: Mary-Clare Race



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Tipperary County Council

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Date: 27th May, 2024

Our Ref: S5/24/53

Civic Offices, Nenagh

Mary-Clare Race

C/O Niall Montgomery + Partners Architects + Landscape Architects

33 Rock Road

Williamstown

Blackrock

Co. Dublin

A94 N5Y3

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

Dear Mr Ryan,

I refer to your application for a Section 5 Declaration received on 30th April, 2024, in relation to the following proposed works:

The construction of a single store stable building on the south side at Brookhill, Evardsgrange, Fethard, Co. Tipperary.

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

A question has arisen as to whether the following works;

- The construction of a single storey stable building adjacent to a dwelling in Brookhill, Evardsgrange, Fethard, Co. Tipperary,

Is development and is or is not exempted development.

- Part 5 of the Planning and Development Act 2000 (as amended) requires a Planning Authority to make a declaration on any question that arises as to whether a proposal constitutes development and is or is not exempted development. In determining this query, the Planning Authority had regard to;
- Sections 2, 3, 4 and 57 of the Planning and Development Act 2000 (as amended),

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/53** **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. 37256 dated 4th March, 2024, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Mary-Clare Race, C/O Niall Montgomery + Partners Architects + Landscape Architects, 33 Rock Road, Williamstown, Blackrock, Co. Dublin A94 N5Y3 re: construction of a single store stable building on the south side at Brookhill, Evardsgrange, Fethard, Co. Tipperary is development and **is not exempted development**.

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

- Sections 2, 3, 4 and 57 of the Planning and Development Act 2000 (as amended),
- Articles 6 and 9 of the Planning and Development Regulations 2001(as amended),
- Class 1 and 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended),
- Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), and,
- the nature and scale of the proposed development, as outlined in submissions on file by the owner.

Having considered the information received, the Planning Authority has decided that;

- The construction of the subject stables building constitutes works and development within the meaning of the Planning and Development Act 2000, as amended.
- The Planning Authority is of the opinion that, in the absence of a comprehensive assessment of same, the works proposed have the potential to impact upon the setting of the adjoining protected structure.

- The development does not come within the scope of the exemptions provided for under Class 1 or 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended
- While the development comes within the scope of Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended, it cannot be considered as exempted development, based on the information presented, by virtue of not complying with Condition / Limitations Nos 2 and 3 attached to this exemption
- The proposal has been screened as to the requirement for Appropriate Assessment (AA) and it has been determined that same is not required. The proposal is not of a class of development requiring Environmental Impact Assessment.

Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000, as amended, it is hereby decided that–

The development consisting of the construction of a single storey stable building adjacent to a dwelling in Brookhill, Evardsgrange, Fethard, Co. Tipperary, is development and **is not exempted development.**

Signed:

Sharon Kennedy

Director of Services

Planning and Development (including Town Centre First),

Emergency Services and Emergency Planning and

Tipperary/Cahir/Cashel Municipal District

Date: 27/05/2024

- Articles 6 and 9 of the Planning and Development Regulations 2001(as amended),
- Class 1 and 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended),
- Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), and,
- the nature and scale of the proposed development, as outlined in submissions on file by the owner.

Determination

Having considered the information received, the Planning Authority has decided that;

- The construction of the subject stables building constitutes works and development within the meaning of the Planning and Development Act 2000, as amended.
- The Planning Authority is of the opinion that, in the absence of a comprehensive assessment of same, the works proposed have the potential to impact upon the setting of the adjoining protected structure.
- The development does not come within the scope of the exemptions provided for under Class 1 or 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended
- While the development comes within the scope of Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended, it cannot be considered as exempted development, based on the information presented, by virtue of not complying with Condition / Limitations Nos 2 and 3 attached to this exemption
- The proposal has been screened as to the requirement for Appropriate Assessment (AA) and it has been determined that same is not required. The proposal is not of a class of development requiring Environmental Impact Assessment.

Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000, as amended, it is hereby decided that- The development consisting of the construction of a single storey stable building adjacent to a dwelling in Brookhill, Evardsgrange, Fethard, Co. Tipperary, is development and **is not exempted development.**

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

Geraldine Quinn

for **Director of Services**

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1 Introduction

1.1 Query

- 1.1.1 A question has arisen pursuant of Section 5 of the Planning and Development Act 2000 (as amended) as to whether or not the construction of a single storey stable building adjacent to a dwelling in Brookhill (which is a protected structure) constitutes exempted development. The site is located at Brookhill, Evardsgrange, Fethard, Co. Tipperary.

2 Site Location and History

2.1 Site location

- 2.1.1 The application site is located in a rural area to the north east of the village of Fethard in Co. Tipperary. The site is located in the Rural Area Under Urban Influence as defined in the Tipperary County Development Plan 2022. It also forms part of a designated Class 2 Scenic amenity area.
- 2.1.2 On site, there is a detached three-bay two-storey house, built c. 1800, with three-bay single-storey extension to the east elevation.
- 2.1.3 The structure on site is listed on the Record of Protected Structures as set out in the Tipperary County Development Plan 2022 (S1060). The dwelling is also listed on the National Inventory of Architectural Heritage (NIAH Ref 22207005).

2.2 Planning History

- 2.2.1 The planning history on site is summarised in table 1 below.

Table 1 Planning History

Planning Reference	Description of Development	Decision
On-Site		
03/1088	the changing to residential use of the stable/store building abutting the main house, replacement of the rear two-storey bathroom/lobby structure with a single storey 56 sq.m. domestic structure linking the main house and the above mentioned stable building, contingent alterations at ground and first floor levels and the installation of site effluent disposal system	Granted
98/349	opening of new entrance from the road and bring a new avenue to the existing house	Granted

Figure 1 Planning history



3 Legislative Context

3.1 Planning and Development Act 2000 (as amended)

3.1.1 According to **Section 2(1)** of the **Planning and Development Act (as amended)**, provides the following definitions;

“**agriculture**” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and “agricultural” shall be construed accordingly;

“**structure**” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and

“**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..

3.1.2 According to **Section 3(1)** of the **Planning and Development Act (as amended)**, “development” means, save where the context otherwise requires, the carrying out of works on, in or under land or the making of any material change in the use of any structures or other land.

3.1.3 **Section 4** of the same Act lists works that would be considered exempted development.

Section 4(1)(a) ‘Development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used’.

3.1.4 **Section 57 (1)** of the Planning and Development Act, 2000, as amended, notes that the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—

(a) the structure, or

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

3.2 Planning and Development Regulations 2001, as amended

3.2.1 Article 6 of the Planning and Development Regulations (2001 – 2013) refers to “Exempted Development”. 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.

- 3.2.2 Article 6(3) notes that 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.
- 3.2.3 Class 3 of Part 1 of the Second Schedule (General) of the 2001 Regulations refers to development within the curtilage of a house: 'The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure'. Column 2 refers to conditions and limitations that apply (see extract included in Appendix).
- 3.2.4 Class 6 of Part 3 of the Second Schedule (Rural) of the 2001 Regulations refers to agricultural structures: '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'.
- Column 2 refers to conditions and limitations that apply (see extract in Appendix), including the following:
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 to be constructed in line with the Department of Agricultural and Department of Environment and Local Government requirements and 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 within 100 metres of any house (other than the house of the person providing the structure) 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.
- 3.2.5 Article 9 of said Regulations lists a series of restrictions on exemptions. Of particular note are the provisions of Article 9(1)(vi) which de-exempts development which interferes with the character of a landscape, or a view or prospect of special amenity value or special interest and Article 9(1)(a)(viiiB) which de exempts developments that requires an appropriate assessment because it would likely have an effect on the integrity of a European designated site.

4 Assessment

4.1 Works Proposed

4.1.1 For the purpose of this Declaration, the work, to which the query relates, is,

- The construction of a single storey stable building adjacent to a dwelling in Brookhill, Evardsgrange, Fethard, Co. Tipperary.

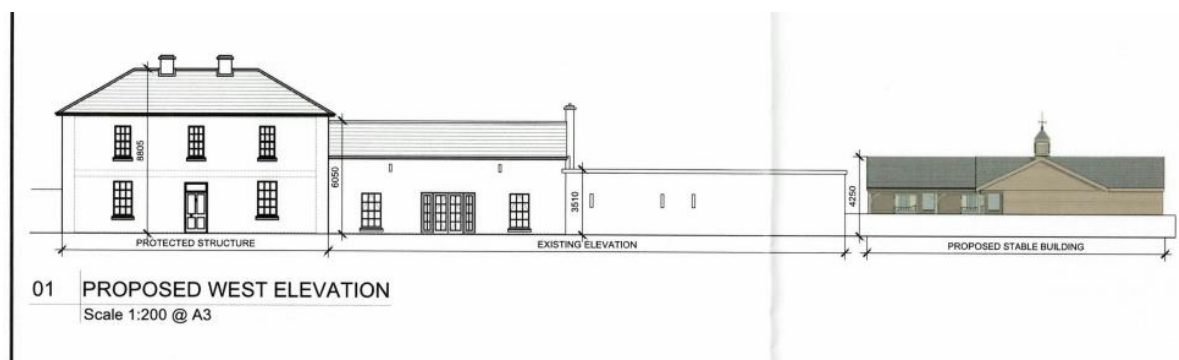
4.2 Is it development?

4.2.1 Having regard to Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended), it is considered that the proposal as set out in paragraph 4.1.1 above, constitutes development as works are proposed on site.

4.3 Is it exempted development?

4.3.1 As noted above, the structure on site is a protected structure. There are a number of issues which merit consideration. The first relates to the impact of the works proposed on the protected structure. The applicant has indicated the original dwelling house is the protected structure. It is stated that the works proposed will be removed from the protected structure and will not have a visual impact on same.

Figure 2 Proposed Contextual elevation



4.3.2 As illustrated above, there is a clear visual connection between the protected structure and the works proposed.

4.3.3 The protection afforded to structures listed on the Record of Protected Structures extends not just to the building but also its curtilage and setting. The applicant has not provided any assessment with respect to the potential impact of the works proposed on either the character or setting of the protected structure. As per S57 of the Planning and Development Act, works are only exempt if they, in the opinion of the Planning Authority, would not materially affect the character of the structure.

4.3.4 Based on the information and drawings presented, the Planning Authority is of the opinion that the works proposed may have an impact on the setting of the adjacent protected structure.

4.3.5 The second issue to be considered relates to the structures proposed. Setting aside the impact on the character of the protected structure, is there an exemption for the works proposed? A review of Part 1 of the Second Schedule of the 2001 Regulations shows that there is no exemption for a stable building within the curtilage of a domestic dwelling.

- 4.3.6 Article 6(3) effectively provides for exemptions for agricultural structures in rural areas. It is reasonable to allow for these exemptions to be availed of where there is an established agricultural use on the landholding within which the dwelling is located (ABP Ref 15.RL.2235). The category of buildings which are exempted and the limitations are set out under Class 6 of Part 3 (Rural) of the Second Schedule of the Planning and Development Regulations 2001, as amended. This class specifically allows for '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'.
- 4.3.7 It is clear that the horse stable building which is the subject of this referral fits within Class 6 category. However, the conditions and limitations set down under the same schedule must be considered. These are listed above.
- 4.3.8 The Planning Authority is satisfied that the proposal does not contravene the majority of the conditions/limitations, including No.1 (agriculture purpose), 4 (location greater than 10m from public road), 5 (not to exceed 8m in height if within 100m of a public road), 6 (location greater than 100 metres from a third party property) and 7 (no unpainted metal sheeting).
- 4.3.9 With respect to condition 2, there is some uncertainty. The structure proposed has a floor area of 158 sqms. The floor plans submitted indicated that there are a number of existing stables on site. The cumulative floor area of the stables would appear to exceed 300 sqms.
- 4.3.10 In relation to Condition/Limitation No.3 (adequate effluent storage facilities), no details were provided. In the absence of drawings or documentary evidence, it cannot be determined that the stable building development satisfies Condition/limitation No.3.

4.4 Environmental considerations.

- 4.4.1 An AA screening assessment in respect the development proposed is attached as Appendix 1 and identifies impacts on a Natura 2000 site arising from the development are unlikely. Therefore an Appropriate Assessment of the development is not required (see appendix below).
- 4.4.2 The proposal is not a class of development to which EIA relates.

5 Conclusion

5.1 Query

5.1.1 A question has arisen as to whether the following works;

- The construction of a single storey stable building adjacent to a dwelling in Brookhill, Evardsgrange, Fethard, Co. Tipperary,

Is development and is or is not exempted development.

5.1.2 Part 5 of the Planning and Development Act 2000 (as amended) requires a Planning Authority to make a declaration on any question that arises as to whether a proposal constitutes development and is or is not exempted development. In determining this query, the Planning Authority had regard to;

- Sections 2, 3, 4 and 57 of the Planning and Development Act 2000 (as amended),
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),
- Class 1 and 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended),
- Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), and,
- the nature and scale of the proposed development, as outlined in submissions on file by the owner.

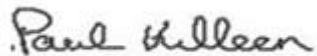
5.2 Determination

5.2.1 Having considered the information received, the Planning Authority has decided that;

- The construction of the subject stables building constitutes works and development within the meaning of the Planning and Development Act 2000, as amended.
- The Planning Authority is of the opinion that, in the absence of a comprehensive assessment of same, the works proposed have the potential to impact upon the setting of the adjoining protected structure.
- The development does not come within the scope of the exemptions provided for under Class 1 or 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- While the development comes within the scope of Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended, it cannot be considered as exempted development, based on the information presented, by virtue of not complying with Condition / Limitations Nos 2 and 3 attached to this exemption.
- The proposal has been screened as to the requirement for Appropriate Assessment (AA) and it has been determined that same is not required. The proposal is not of a class of development requiring Environmental Impact Assessment.

Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000, as amended, it is hereby decided that–

The development consisting of the construction of a single storey stable building adjacent to a dwelling in Brookhill, Evardsgrange, Fethard, Co. Tipperary, is development and **is not exempted development.**



Paul Killeen

Executive Planner

23rd of May 2024



Caroline Conway

Senior Executive Planner

23rd of May 2024

APPENDIX 1

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT				
STEP 1. Description of the project/proposal and local site characteristics:				
(a) File Reference No:		S5/24/53		
(b) Brief description of the project or plan:		Stables		
(c) Brief description of site characteristics:		The application site is located in a rural area to the north east of the village of Fethard in Co. Tipperary. The site is located in the Rural Area Under urban Influence as defined in the Tipperary County Development Plan 2022. It also forms part of a designated Class 2 Scenic amenity area.		
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW		n/a		
(e) Response to consultation:		n/a		
STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Lower River Suir SAC 002137	https://www.npws.ie/protected-sites/sac/002137	1.2 kms	No due to distance and lack of connection	N
River Barrow and River Nore SAC 002162	https://www.npws.ie/protected-sites/sac/002162	11.9 kms	No due to distance and lack of connection	N
STEP 3. Assessment of Likely Significant Effects				
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:				
Impacts:		Possible Significance of Impacts: (duration/magnitude etc.)		

<p>Construction phase e.g.</p> <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	It is not considered that the works to be undertaken on site, which are minor in nature, will have impacts that could affect European Sites within the wider catchment area.
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	No impacts anticipated
In-combination/Other	No likely in combination effects

(b) Describe any likely changes to the European site:

<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation status value (water or air quality etc.) • Changes to areas of sensitivity or threats to QI • Interference with the key relationships that define the structure or ecological function of the site 	<p>None.</p> <p>The application site is not located within a European site, therefore there is no risk of habitat loss or fragmentation or any effects on QI species directly or ex-situ.</p> <p>Surface water will be managed through appropriate on site drainage system</p>
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(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

Yes No

STEP 4. Screening Determination Statement

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

On the basis of the information on file, which is considered adequate to undertake a screening determination and having regard to:

- the nature and scale of the proposed development,

it is concluded that the development, individually or in-combination with other plans or projects, would not be likely to have a significant effect on the above listed European sites or any other European site, in view of the said sites' conservation objectives.

An appropriate assessment is not, therefore, required..

Conclusion:

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	Paul Killeen	Date: 23/05/24

EIA PRE-SCREENING

Establishing a development is a 'sub-threshold development'

File Reference:	S5/24/53	
Development Summary:	Stable building	
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> No, Proceed to Part A	
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1, of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)		
<input type="checkbox"/> Yes, specify class	EIA is mandatory No Screening required	
<input checked="" type="checkbox"/> No	Proceed to Part B	
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2, of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)		
<input checked="" type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	No Screening required	
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold):	EIA is mandatory No Screening required	
<input type="checkbox"/> Yes the project is of a type listed but is <i>sub-threshold</i> :	Proceed to Part C	
C. If Yes, has Schedule 7A information/screening report been submitted?		
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	Screening Determination required	

No, Schedule 7A information/screening report has not been submitted by the applicant

**Preliminary Examination
required**