

# COMHAIRLE CONTAE CHILL DARA

## KILDARE COUNTY COUNCIL

### Director of Services Order



I, Alan Dunney, Director of Services, am duly authorised and delegated by Chief Executive's Order number: CE48043 to make the following Order in accordance with Section 154 of the Local Government Act, 2001, as amended.

**ORDER NO:** DO51627 **Section:** Planning

**SUBJECT:** ED/1103.  
Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Grangebeg, Dunlavin, Co. Kildare.

**SUBMITTED:** File Ref. ED/1103 with recommendation from the A/Senior Planner and reports from the Council's Technical Officers.

**ORDER:**  I hereby order the following Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended) hereby decides that the proposed development is development and is exempted development.

MADE THIS 11 DAY  
OF March YEAR 2024.

SIGNED:   
**DIRECTOR OF SERVICES**

**Kildare County Council**  
**Declaration of Exempt Development under Section 5,**  
**of the Planning and Development Act 2000**

Incomplete application forms will  
be deemed invalid and returned



All responses must be in block  
letters

|                  |                              |
|------------------|------------------------------|
| <b>Section 1</b> | <b>Details of Applicants</b> |
|------------------|------------------------------|

1.Name of Applicant(s) A. Surname...MOORE. Forenames...THOMAS.....  
 Phone No. [REDACTED] x No.....  
 2.Address ...GRANGEBEG, DUNLAVIN, CO. KILDARE  
 .....

|                  |   |
|------------------|---|
| <b>Section 2</b> | <b>Person/Agent acting on behalf of applicant (if applicable)</b> |
|------------------|---|

1.Name of Person/Agent: Surname...WARREN..... Forenames...JOSEPH J...  
 Phone No...087 755 8896 Fax No.....  
 2.Address...THE NOOK, HILLSIDE, KILCULLEN, CO. KILDARE .....R56Y651  
 .....DESIGN & CONSULTANCY SERVICES.....

|                  |  |
|------------------|--|
| <b>Section 3</b> | <b>Company Details (if applicable)</b> |
|------------------|--|

1.Name of Company ...N/A.....  
 Phone No..... Fax No.....  
 2. Company Reg. No.....  
 3. Address.....  
 .....



|                  |                        |
|------------------|------------------------|
| <b>Section 4</b> | <b>Details of Site</b> |
|------------------|------------------------|

1.Planning History of Site.....PI App Ref No 16/823. Construction of dwelling . WWTS etc.....  
 2. Location of Proposed Development.....Development carried out May 2020 Grangebeg, Dunlavin , Co  
 ..Kildare...Eircode: W91AHC9.....  
 3.Ordnance Survey Sheet No...3780-C 3838.....  
 4.Please state the Applicants interest in the site Owner of neighboring farmlands East and South of  
 Subject. Site.....  
 5. Please state the extent of the proposed development- Development carried out May 2020 comprising of piping  
 and filling in of open stream along eastern boundary of the site (resulting in flooding of Applicants farmlands)

6. Under what Section of the Planning and Development 2000 and/or what provision of the Planning and Development Regulations 2001 is exemption sought (*specific details required*)

.....we are seeking Section 5 Declaration from Kildare Co Council

stating whether this is exempt development or is not exempted development. KCC have suggested it is exempt under Class 3 exempt development provisions

7. Please give a detailed description of the Proposed Development (*Use separate page if necessary*).....

The owner of the site in question piped the open stream and filled it in. (resulting in serious flooding on the applicants lands.) This stream has historically been an open watercourse.

We include significant documentation which outlines the situation regarding the development and outlining the time frame of the development .

The development took place after the dwelling was completed. The planning application documentation clearly shows the stream as an open watercourse . This development contravenes conditions of the planning permission granted under pl reg ref No 16 823 and therefore no exemption can be applied . We refer to the notes that are issued by the L.A. along with the Section 5 application form.....

Kildare County Co.  
Planning Department  
13 FEB 2024  
RECEIVED

|           |   |
|-----------|---|
| Section 5 | The following must be submitted for a valid application |
|-----------|---|

|    |  | (Please Tick) |
|----|--|---------------|
| 1. | Site Location Map (1:2500 Rural Areas) (1:1000 Urban Areas)  | X             |
| 2. | A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001         | X             |
| 3. | Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001 | N/A           |
| 4. | All drawings to differentiate between the original building, all extensions and proposed development                     | N/A           |
| 5. | Fee of 80 Euro   | x             |

Additional documentation included in support and for clarification: Photographs . Letter from DCS to applicant dated 16/11/23. Report and recommendations by DCS for the applicant dated 21st March 2022.

|           |             |
|-----------|-------------|
| Section 6 | Declaration |
|-----------|-------------|

I, THOMAS MOORE certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Signature:

Thomas Moore

Date:

12/02/2024

## Exempted Development - Frequently Asked Questions

### Important Pre-Conditions

Any construction work or other development can generate impacts affecting adjoining occupier's property and it is important that any development carried out as "exempted development" is carried out in strict accordance with the requirements of the Planning and Development Regulations, 2001, as amended or the "exemptions" contained in the Planning and Development Acts, 2000 as amended. **In this regard, the onus is on the person(s) carrying out the development to ensure that the works carried out are exempted development.**

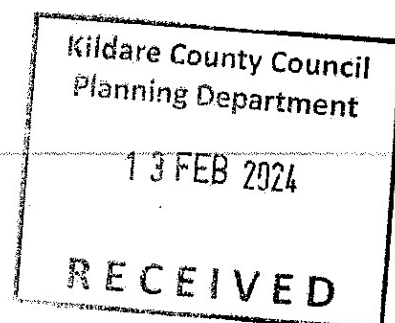
Accordingly, any person(s) wishing to carry out exempted development is strongly advised to obtain their own professional advice as to whether or not the development complies with the exempted development criteria. Alternatively, you may submit an application to the Planning Authority for a declaration under Section 5 of the Planning and Development Acts to determine whether the works is development and/or is exempted development. Any such application must be accompanied by a fee of €80.00 along with an application form and sufficient information to allow the planning authority make a determination in the case. Any person(s) issued with a Declaration under Section 5 of the Planning and Development Acts may, on payment of the prescribed fee, refer the Declaration for review to An Bord Pleanala.

Please note all exempted development is subject to certain restrictions as set out in Articles 6, 7, 8, 9 and 10 of the Regulations. **If they apply to a particular development, then that development is no longer exempted development.** Listed below are **some** of the restrictions which can arise. This is not the complete listing of all restrictions, but includes samples of restrictions which can affect the more common types of exempted development:

1. **If carrying out the exempted development would contravene a condition attached to a permission under the Act. Example, if a permission included a condition requiring that the front gardens of a housing estate be kept open plan, it would no longer be exempted development to build a front garden wall.**
2. Making or widening an entrance to a public road where that road exceeds 4 metres in width.
3. Endanger public safety by creating a traffic hazard or obstruction of road users.
4. Putting on an extension (except a porch described later) so as to bring the building or any part of the building forward of the front wall of the building on either side. **Example, putting a bay window onto the front of a house which projects beyond the front wall of the adjoining house – is not exempted development.**
5. Would interfere with the character of a landscape or a view or prospect of special amenity value or interest, the preservation of which is an objective of the development plan. **Example, this could arise in the case of certain exempted developments, in particular farm buildings.**



6. Fencing or enclosing any land habitually open to or used by the public during the previous 10 years for recreational purposes or as means of access to any mountain.
7. Obstruct any right of way.
8. Carrying out works to the exterior of a structure which is located within an architectural conservation area in a development plan or draft development plan and where the development would materially affect the character of the area.
9. Advertisements located on the exterior of structures within an architectural conservation area (or proposed such area in a draft development plan) should not materially affect the character of the area (see Article 6 (2) (iv).



Comhairle Contae Chill Dara  
Kildare County Council



Date: 11<sup>th</sup> March 2024.  
Our Ref: ED/1103.

Thomas Moore,  
c/o Design & Consultancy Services,  
The Nook,  
Hillside,  
Kilcullen,  
Co. Kildare.  
R56 Y651.


**RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Grangebeg, Dunlavin, Co. Kildare.**

Dear Sir/Madam,

I refer to your correspondence received on 13<sup>th</sup> February 2024 in connection with the above.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 (as amended) in this regard.

Yours sincerely,

  
**Senior Executive Officer,  
Planning Department.**



**Declaration of Development & Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended).**

**ED/1103.**

**WHEREAS** a question has arisen as to whether the piping and filling of an open stream at Grangebeg, Dunlavin, Co. Kildare, is exempted development,

**AS INDICATED** on the plans and particulars received by the Planning Authority on 13<sup>th</sup> February 2024

**AND WHEREAS** Thomas Moore requested a declaration on the said question from Kildare County Council,

**AND WHEREAS** Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended) and
- (b) Planning and Development Regulations 2001 (as amended); and

**AND WHEREAS** Kildare County Council has concluded that the proposal comprises of development to which the provisions of the following applies:

- (a) Sections 2 & 3 of the Planning and Development Act 2000 (as amended);
- (b) Article 6, and Schedule 2, Part 3, Class 3 of the Planning and Development Regulations 2001 (as amended).
- (c) The nature, extent and purpose of the works,

**NOW THEREFORE** Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the piping and filling of an open stream.

***IS development and IS EXEMPTED development*** pursuant to Section 2 & 3 of the Planning and Development Act as amended and Article 6, Part 3, Class 3 of the Planning and Development Regulations as amended.

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

**11<sup>th</sup> March 2024.**

  
**Senior Executive Officer,  
Planning Department.**

Comhairle Contae Chill Dara  
Kildare County Council



**Planning Department**  
**045-980845.**

8<sup>th</sup> April 2024.  
Our Ref: ED/1103.

Andrea Moore  
Grangebeg,  
Dunlavin,  
Co. Kildare  
W91 AHC9

**Re. Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Grangebeg, Dunlavin, Co. Kildare.**

Dear Ms. Moore,

Please find enclosed a copy of a Section 5 Declaration of Exempt Development which was issued to Mr. Thomas Moore 11<sup>th</sup> March 2024.

Yours Sincerely,

  
**Senior Executive Officer**  
**Planning Department**

Comhairle Contae Chill Dara  
Kildare County Council



Date: 11<sup>th</sup> March 2024.  
Our Ref: ED/1103.

Thomas Moore,  
c/o Design & Consultancy Services,  
The Nook,  
Hillside,  
Kilcullen,  
Co. Kildare.  
R56 Y651.

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Dear Sir/Madam,

I refer to your correspondence received on 13<sup>th</sup> February 2024 in connection with the above.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 (as amended) in this regard.

Yours sincerely,

Senior Executive Officer,  
Planning Department.

Comhairle Contae Chill Dara  
Kildare County Council



**Declaration of Development & Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended).**

ED/1103.

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- (b) Article 6, and Schedule 2, Part 3, Class 3 of the Planning and Development Regulations 2001 (as amended).
- (c) The nature, extent and purpose of the works,

**NOW THEREFORE** Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the piping and filling of an open stream.

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Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

11<sup>th</sup> March 2024.

  
Senior Executive Officer,  
Planning Department.

## KILDARE COUNTY COUNCIL



### PLANNING & STRATEGIC DEVELOPMENT DEPARTMENT

#### Section 5 referral & declaration on development & exempted development

#### Planning & Development Act 2000 (as amended)

Reference No. ED/1103.

|                                 |                                       |
|---------------------------------|---------------------------------------|
| <b>Name Of Applicant(s):</b>    | Thomas Moore.                         |
| <b>Address Of Development:</b>  | Grangebeg, Dunlavin, Co. Kildare.     |
| <b>Development Description:</b> | Piping and filling of an open stream. |
| <b>Due date</b>                 | 12/3/2024.                            |

#### **Introduction**

This is a request for a **DECLARATION** under Section 5(1) of the Planning and Development Act 2000 (as amended) to establish whether under Section 5 of the Act the works piping and filling of an open stream.

#### **Site Location**

The site is located within the townland of Grangebeg, Dunlavin close with the eastern boundary of Kildare County Council. The site contains a detached dwelling and garage.



**Fig 1:** Site Location and context



**Fig 2:** Aerial view of subject site (Google Images)



**Fig. 3** Eastern boundary of site.

### **Description of Proposed Development**

Thomas Moore has applied for a Section 5 exempt development certificate in relation to works that have taken place on Andrea Moores lands, the works that have taken place are described within the application form as: *“the works piping and filling of an open stream along the eastern boundary of the site (resulting in Flooding of Applicants farmlands).”*

### **Planning History**

**16/823:** Andrea Moore was **granted** permission for a) proposed new dormer dwelling; b) new vehicle entrance; c) domestic garage; d) new treatment system and percolation along with all associated site development and facilitating works.

**PI 09.248060:** There was a third party appeal lodged to An Bord Pleanála. The Bord upheld the decision to grant permission.

**ED991:** Andrea Moore applied for a Section 5 in relation to minor drainage works to south-east boundary of site. Further information was requested and this was not responded to.

**UD:7742:** A complaint was made in relation to filling in open land drain at rear of site causing flooding on objector's land.

No unauthorised development was found and the file has been closed.

**UD8443:** A complaint was made in relation piping and filling in open stream in contravention in planning permission conditions.

No unauthorised development was found and the file has been closed.

### **Relevant Legislative Background**

#### **Planning and Development Act 2000 (as amended)**

##### **Section 2(1)**

*'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.*

##### **Section 3(1)**

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

##### **Section 5(7) EIA Screening**

The proposed development is not specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001(as amended). In any event, it is considered, having regard to nature, size and location, the proposed development would not be likely to have significant effects on the environment. Therefore, EIA is not required.

Appropriate Assessment Screening Accompanies this report.

#### **Planning and Development Regulations 2001 (as amended)**

### **Article 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.

Planning and Development Regulations 2001 (as amended) Schedule 2 Part 3,  
Exempt Development- Rural  
CLASS 3

*“Works relating to the construction or maintenance of any gully, drain, pond, trough, pit or culvert, the widening or deepening of watercourses, the removal of obstructions from watercourses and the making or repairing of embankments in connection with any of the foregoing works.”*

### **Article 9 (1)(a)(i)**

Restrictions on exemption.

9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act. There a number of categories set out within this section, none of which are applicable in this instance.

### **Assessment**

The question is whether the *“piping and filling of an open stream”* is exempt development under Part 3 Class 3.

What has occurred on site is that an existing drain was culverted with soil, grass and hedgerow planting above/to the side. Class 3 facilitates the construction of a culvert. It is considered the works that have taken place fit within the scope of this planning exemption.

### **Conclusion**

Having regard to:

- Sections 2, 3, 9 of the Planning and Development Act 2000 (as amended);
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended); and
- The nature, extent and purpose of the works;

it is considered that the proposed works **constitutes development** as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and **is exempted development** as defined by the Planning and Development Act 2000 (as amended) and Article 6, Schedule 2, Part 3, Class 3 of the Planning and Development Regulations 2001 (as amended).

### **Recommendation**

It is recommended that the applicant be advised that the development as described in the application is development and is exempted development.

Signed:

  
L. Murphy

Executive Planner

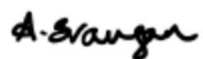
Date: 26/02/2024



Bébhinn O'Shea

Senior Executive Planner

01/03/2024



Aoife Brangan

A/SP

04/03/24

## **Declaration of Development & Exempted Development under**

### **Section 5 of the Planning and Development Act 2000 (as amended)**

**WHEREAS** a question has arisen as to whether the piping and filling of an open stream constitutes Development or/or Exempted Development

**AS INDICATED** on the plans and particulars received by the Planning Authority on 13/02/2024

**AND WHEREAS** Thomas Moore requested a declaration on the said question from Kildare County Council,

**AND WHEREAS** Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended); and
- (b) Planning and Development Regulations 2001 (as amended);

**AND WHEREAS** Kildare County Council has concluded that the proposal comprises of development to which the provisions of the following applies:

- (a) Sections 2 & 3 of the Planning and Development Act 2000 (as amended);
- (b) Article 6, and Schedule 2, Part 3, Class 3 of the Planning and Development Regulations 2001 (as amended).
- (c) The nature, extent and purpose of the works,

**NOW THEREFORE** Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that

the piping and filling of an open stream.

***IS development and IS EXEMPTED development pursuant to Section 2 & 3 of the Planning and Development Act as amended and Article 6, Part 3, Class 3 of the Planning and Development Regulations as amended.***

Please note that any person issued with a declaration under Section 5 of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

Signed: \_\_\_\_\_

## **Appendix 1: Appropriate Assessment Screening**



## APPROPRIATE ASSESSMENT SCREENING REPORT AND DETERMINATION

### (A) Project Details

|  |  |
|--|--|
| Planning File Ref  | ED1103   |
| Applicant name   | Thomas Moore   |
| Development Location   | Grangebed Dunlavin, Co. Kildare  |
| Site size  | Unknown  |
| Application accompanied by an EIS (Yes/NO)   | N/A  |
| Distance from Natura 2000 site in km   | The site is located c. 6.5km northeast of the Poulaphuca Reservoir SPA |
| Description of the project/proposed development –<br>Piping and filling of an open stream. |  |

### (B) Identification of Natura 2000 sites which may be impacted by the proposed development

|   |  |  | Yes/No<br>If answer is yes, identify list name of Natura 2000 site likely to be impacted. |
|---|--|--|---|
| 1 | <b>Impacts on sites designated for freshwater habitats or species.</b><br><br><u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh lake | <i>Is the development within a Special Area of Conservation whose qualifying interests include freshwater habitats and/or species, or in the catchment (upstream or downstream) of same?</i> | No  |
| 2 | <b>Impacts on sites designated for wetland habitats - bogs, fens, marshes and heath.</b>   | <i>Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats</i>  | No  |

|          |  |  |           |
|----------|--|--|-----------|
|          | <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Mouds Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake                  | <i>(bog, marsh, fen or heath), or within 1 km of same?</i>   |           |
| <b>3</b> | <b>Impacts on designated terrestrial habitats.</b><br><u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh Lake | <i>Is the development within a Special Area of Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?</i> | <b>No</b> |
| <b>4</b> | <b>Impacts on birds in SPAs</b><br><u>Sites to consider:</u> Poulaphouca Reservoir   | <i>Is the development within a Special Protection Area, or within 5 km of same?</i>  | <b>No</b> |

#### Conclusion:

If the answer to all of the above is **No**, significant impacts can be ruled out for habitats and bird species.

No further assessment in relation to habitats or birds is required.

If the answer is **Yes** refer to the relevant sections of **C**.

| <b>(G) SCREENING CONCLUSION STATEMENT</b>  |  |          |
|--|--|----------|
| <i>Selected relevant category for project assessed by ticking box.</i>   |  |          |
| <b>1</b>   | AA is not required because the project is directly connected with/necessary to the conservation management of the site                                     |          |
| <b>2</b>   | No potential significant affects/AA is not required  | <b>X</b> |
| <b>3</b>   | Significant effects are certain, likely or uncertain.<br>Seek a Natura Impact Statement<br>Reject proposal. (Reject if potentially damaging/inappropriate) |          |
| <b>Justify why it falls into relevant category above (based on information in above tables)</b>  |  |          |
| Having regard to the proximity of the nearest SAC site, and the relatively small-scale and the nature and extent of the proposal, it is not considered a potential exists for significant effects on this European site. |  |          |
| <b>Name:</b>   | L. Murphy  |          |
| <b>Position:</b>   | Executive Planner  |          |
| <b>Date:</b>   | 21/02/2024   |          |

# **DESIGN & CONSULTANCY SERVICES**

Email: [jjwarreno6@gmail.com](mailto:jjwarreno6@gmail.com)

phone 0877558896

The Nook,  
Hillside,  
Kilcullen,  
Co. Kildare  
R56Y651  
16/11/2023



Mr Tom Moore  
Grangebeg,  
Dunlavin,  
Co. Kildare.

## **Re: Unauthorised Development Compliant to Kildare Co Council**

Dear Tom,

In relation to the flooding issue on your lands I believe that you must lodge an unauthorised development complaint notification to Kildare Co Council. I suggest that you enclose this letter with the complaint and with that in mind I am going to outline the situation for the benefit of the Council technical staff .

1. The att. photos show significant increase in the extent of flooding on the farm lands. It is important to point out that there was never an issue with any flooding on these lands and this can be borne out by checking with all flood records for the area .
2. The roads department of Kildare Co Council , undertook the installation of flood relief works on the local road and piped an outfall drain into the farmlands where it discharges to a ditch which joins with other water ways and forms a stream. These works were carried out with your full permission, the land owner. These works were carried out in May 2016 .
3. Kildare Co Council roads department installed a culvert at the same time , to facilitate the adjoining farm lands. This culvert consists of 2no 300mm diameter pipes, this was a significant increase in the size of the original culvert pipe. Obviously the roads department realised that there would be a significant increase in the volume of water flowing into the stream as a result of the outfall drain from the road. There was no issue whatsoever regarding the Drainage off the road for a number of years.
4. In April 2020 the owner of the adjoining land piped and filled in the stream at the rear of her site. Within 3 months there were signs of flooding appearing in the fields to the south and east of her site, on your lands. The flooding became extremely serious as it covered a significant area of the farmlands, rendering C. 2ha un-useable.

There has been considerable stock loss as sheep contracted water related diseases and lambs were seriously affected and failed to gain weight leading to lower valuation when sold . Also considerable stress relating to the flooding situation. There has been a further increase in the area of land flooding as a result of the extreme wet weather during the summer months . Photographs are included showing the extent of flooding around the road drainage outfall pipe.

The situation described above has arisen solely as a result of the piping and filling-in of the open stream . This stream has been an open stream historically and extensive areas of lands to the south of it are drained by it, without there being any issue of flooding up to 2020. The neighbours actions have directly caused the flooding of these lands.

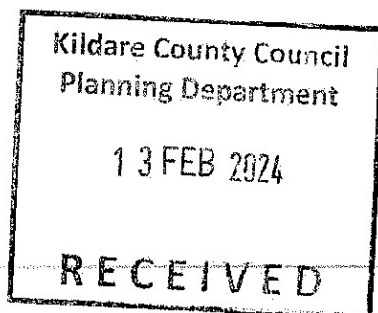
The flooding which started 2020 was caused by the unauthorised piping and filling-in of the stream. There is no exemption within the regulations that allow for the filling in of a stream. This development is in contravention of the planning conditions contained in the grant of planning permission for the dwelling which Andrea Moore received under PL App Reg Ref No16/823

- A. The contention by Kildare Co Council UD Section, in their initial response contained in UD 7742, that the stream was not within the planning subject site, as contained within the red line, has been accepted as not being correct.
- B. Further assessment of the complaint within UD 7742 resulted in the Co Council UD Section stating that ***"the Planning Authority is satisfied that these works are permitted under Class 3 Exempted Development Provisions"***

CLASS 3

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.

- 1. No such structure shall be constructed, erected or placed forward of the front wall of a house.
- 2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.
- 3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.
- 4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.
- 5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.
- 6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.



Class 3. Exemption as described above does not permit the piping and or filling-in of a stream under any circumstances. There is no exemption for such works within the Exempted

Development Provisions. Not only is it the case that the works carried out are not exempt development but the piping of a stream requires a Section 50 consent, where the works relate to public utilities and or Local Authorities in providing services or infrastructure where piping of a waterway is necessary . The development is not exempt and therefore is an unauthorised development.

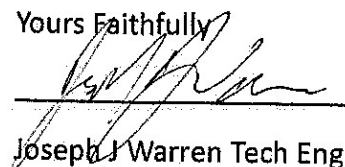
- C. This development is also an unauthorised development as it contravenes conditions of the planning permission granted to Andrea Moore under PI Per Reg Ref No 16823. Condition No 1 of that planning permission grant states that the development be carried in accordance with the plans and documentation lodged on the planning file.

There was a very comprehensive Flood Risk Assessment lodged with the planning application . The integrity of that report relies on the stream, which is constantly referred as an open stream, remaining open. Significant emphases is placed on the open nature of the stream and the flow rate and general good condition of the stream is noted . The culvert , referred to earlier , is referred to in the Flood Risk Assessment, the author states that there will be no risk of flooding of the lands to the south of the subject site and points out that in the event of the culvert being blocked with debris the stream waters would overtop the culvert and return into the stream, downstream of the culvert . This assessment is base on this stream remaining an open watercourse and piping and filling it in renders this assessment redundant. This is in direct contravention of condition No 1 of the grant of planning permission and therefore is an unauthorised development .

- D. This development is in contravention of the condition No 4 of the grant of planning Permission under File Ref No 16/823. The applicant was required to submit a landscaping plan prior to commencement of the development. The landscaping plan submitted clearly shows, and states, that the stream is an open stream, and accordingly it is proposed to be retained as such. The piping and filling -in of the stream is therefore an unauthorised development as it in direct contravention of condition No 4 of the grant of planning permission.

Based on the above the development carried out on this property , namely, piping and filling-in of the open stream, is unauthorised development and is not exempt development under the Exempt Development Provisions within the Planning and Development Act, or the Planning Regulations .

Yours Faithfully



Joseph J Warren Tech Eng

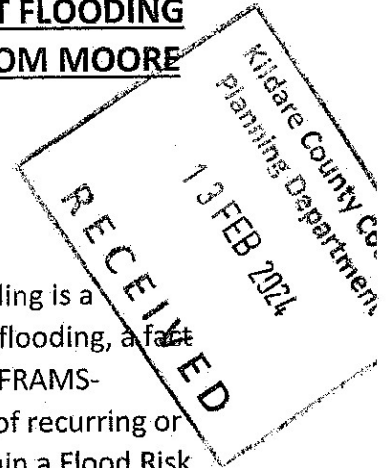


# **DESIGN & CONSULTANCY SERVICES**

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## **REPORT AND RECOMMENDATIONS IN RELATION TO RECENT FLOODING ON LANDS AT GRANGEBEG, DUNLAVIN, CO. KILDARE FOR TOM MOORE**



### **A. FLOOD HISTORY**

We are assured by the landowner, Mr Thomas Moore, that the flooding is a relatively recent occurrence and that these lands have no history of flooding, a fact that is supported by the 'OPW CFRAMS' records for this area. The 'CFRAMS-Summery Local Area Report' confirms that there were no instances of recurring or historical flooding in the area. This contention is also supported within a Flood Risk Assessment lodged in support of a planning application on the adjoining property north of our client's lands, that application is dealt with in detail within this report. We are advised that flooding only commenced in or about Autumn/Winter of 2020.

### **B. ROAD FLOOD RELIEF OUTFALL DRAIN- REQUEST**

Our client has informed us that in early May 2016 he was approached by the Kildare Co Councils' Local Area Engineer, Mr Noel Beggin Eng., seeking permission to lay a storm water pipeline from the Local Road, through his lands, to a ditch on his property. OS Map, marked 'Map No 1', included herewith, shows the approximate location of the pipe line and manholes. Following discussions, during which the capacity within the ditch and stream to receive the storm water was discussed, it was agreed that the volume of water could be absorbed by the ditch which joins up with another ditch and forms a small stream, which is known as Ballybought stream further north. This stream flows in a south to north direction, through our clients' lands and along the boundary with a neighbouring land holding to the north, at the rear of a recently constructed bungalow.

It was noted by both the LAs Engineer and Mr Moore that the stream was indeed an open stream throughout, save as for a field entrance culvert. Mr Moore's agreement to allow the Storm Water Outfall from the public road, be piped through his land and into an open natural land drainage system, was made in good faith and on the understanding that it would never have any adverse effects on his land holding or indeed his livelihood. The upgrading of the culvert, referred to above, was also included as part of the drainage project and two no 300mm Dia. pipes were laid at this point.

By Autumn of 2016 the pipes and manhole installation were completed.

### C. RECENT FLOODING HISTORY

Over the four-year period following the installation of the LA outfall drain, Mr Moore states that there were no problems with the drainage system, despite the fact that the winter of 2016 was one of the wettest winters in recent years. The flooding of the road ceased completely at the two locations where it was addressed by the drainage system installed. The system continued to operate without any flooding up to Autumn/Winter 2020. From late Autumn of 2020 "pockets of flooding" started to appear in some low areas of the fields, in the general area of the storm drain outfall. By early winter large areas of three fields around the ditches and stream became saturated and extensively flooded. The flooding was to such an extent that these areas were totally unusable. The areas have remained saturated, virtually all the time, even despite spells of dry weather. Photographs, included herewith, indicate the extent of the flooding. The location from where the photographs were taken are indicated on the OS Map, Map 'A', referred to earlier. The following is the photo reference.

**Photo No 1 .** This shows the outfall pipe which is a 225 dia. pipe .

**Photo No 2.** This outside of the ditch, to the north, where the outfall pipe is located . This area is constantly under water and wet now.

**Photo no 3.** This is a view back towards the farmyard and clients dwelling. This is a very extensive wet area and relatively new rushes can be seen.

**Photo No 4.** The intersection of the two field ditches where they join to form the stream. This swelling is well above the stream banks. This never happened before 2020 .

**Photo No 5.** An area out in a third field with considerable flooding also .

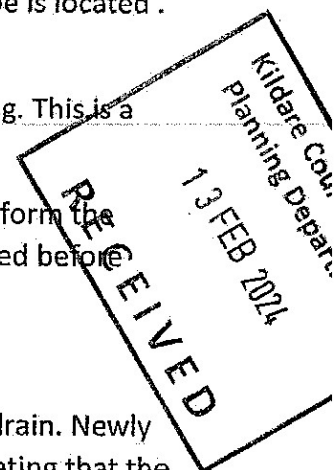
**Photo No 6.** The mature rushes can be seen close to the bank of the drain. Newly growth rushes are clearly visible further out from the watercourse indicating that the flooding is recent and causing new rushes to flourish.

**Photo No 7.** This Photo Shows pebble where the piped section of the stream starts. The pipe is not visible. There appears to be little or no movement of the water in the stream, at this point, algae on top of the stream would support this assumption.

**Photo No 8.** This photo shows that this entire field is not fit for use as areas where there is no lying water the field is saturated and soft under foot throughout.

### D. STOCK LOSS AND ANIMAL WELFARE .

The result of the flooding is that the land owner has had losses of stock as a result of ewes contracting liver fluke, which is directly attributable to the poor damp ground condition. Mr Moore's excessive fatalities in ewes can be verified within his records,



which clearly show a marked increase in the number of animals he had to dispose of since 2020, compared to previous years. The wet conditions have also resulted in a significant frequency of rot in the sheep's hooves and water borne ticks and nematodes, the latter condition has a considerable adverse effect on lambs' health resulting in reduced weight which in turn reduces their value at sale time. The affect is that considerable cost has been incurred by Mr Moore in Veterinary fees and treatment costs, and considerable loss of earnings. There are significant animal welfare issues arising from the situation also.

#### **E. LOSS OF GRAZING LANDS**

A conservative estimate of the affected area of land as a result of the flooding would be in the region of 2 Ha. Teagasc, (the Agricultural Food Development Authority) concur with this estimate of the affected area and have advised Mr Moore to fence off the affected areas of his lands in order to avoid continued hardship on animals and further losses in the future. We include a letter from Teagasc, enclosed herewith, Marked DOC No 1, where they have expressed their opinion on the overall situation regarding the flooding. Teagasc concur with our points relating to the effects of the flooding on the farm and stock, made in this report. The extent of lands that are currently affected is in the region of 2 Ha (5Acres), this area may well increase as lands get saturated and the effects of flooding increases. The present extent of flooded area relates to, in the region of, 15 % of this landholding, owned by Mr Moore. On the advice of Teagasc Mr Moore has no alternative but fence off this entire area in the interest of the health and welfare of his stock and to avoid further fatalities and hardship on his flock. This will affect the overall size of his flock reducing the number of stock considerably.

#### **F. FINANCIAL LOSS AND INSURANCE**

The financial impact of the flooding and subsequent loss of this area of land is extremely significant. The loss is in relation to ewes in particular, but not exclusively, dying from diseases as a result of wet and damp conditions, as alluded to earlier and referred to in the letter from Teagasc. The cost in relation to Veterinary fees and treatments for the stock that contract the specific conditions referred to earlier. There is also the considerable amount of additional time related to the administration of medications and treatment by Mr Moore to the animals. The loss also as a result the reduction of flock size as referred to in Para E above. These losses are currently being assessed by Mr Moore's accountants and he is currently inquiring as to his insurer's liability for the losses incurred to date and ongoing. His insurers, are insisting on information regarding the ingress of the storm water from the public road through the outfall drain, installed by the LA, and all related issues being provided.

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## **G. POSSIBLE CAUSE OF FLOODING**

In assessing the situation we have ascertained that the flooding only commenced in Autumn/Winter 2020 . We are informed by the client that the stream, between his lands and the new dwelling was piped by a third party in or about May 2020. The section of the stream, which has been piped, is directly to the rear of a dwelling house which has recently been constructed .

It would appear that the diameter of the pipe, which was laid, is not properly sized to take the capacity of water in the stream. The pipe is not visible at the southern end, therefore it is not possible to ascertain the size of it . There is significant algae on the top of the stream which, we suggest, indicates poor aeration due to a lack of flow through the pipe as a result of it being too small in diameter, we contend this is causing the back up of storm water which is creating the flooding Mr Moore's lands. The volume of water from the LA storm drain is extremely high, when it rains, and we are of the opinion that the volume of water from this pipe is the major contributor to the flooding problem. While the stream was open there was no issue and therefore the piping of the stream, taking place in the same year as the flooding commenced, is the only logical reason the for the flooding.

## **H. RESPONSIBILITY FOR THE PROBLEM**

We strongly contend that the Local Authority has a duty of care to Mr Moore, who agreed to allow the drainage works take place through his lands . Mr Moore's decision was taken in the interest the greater public good and we suggest that it would be unfair and un-just to allow the current situation prevail and continue to cause him further financial loss and indeed considerable stress.

While we suggest that the LA have a duty of care to the landowner, we also suggest that the LA can discharge that duty of care by ensuring that actions are taken to alleviate the flooding by insisting that the stream be reopened and reinstated to its condition prior to the piping of it in 2020 an open watercourse .

We suggest that responsibility for the problem lies with the landowner who filled in the stream and incorrectly piped it with insufficient size pipe, notwithstanding the pipe size, this stream has historically been an open stream and should not be piped under any circumstances.

## **I. POSLBLE UNAUTHORISED DEVELOPMENT**

We suggest that the piping and filling in of this stream may in itself be an unauthorised development as it interferes directly with the drainage from a public road, insofar as it restricts the flow of water in the stream thereby causing the flooding . The LA installed the drainage system on our clients' property in order to



alleviate a serious flooding problem, in two locations, on the public road, therefore any action that adversely effects the ability of the storm water, from that outfall system, to get away through the natural land drainage system, must be considered as interference with the road drainage. On this basis we feel that the LA should insist on the stream being reinstated and the LA should take whatever enforcement measures are at their disposal to ensure it is done.

#### J. NON- COMPLIANCE WITH PLANNING PERMISSION

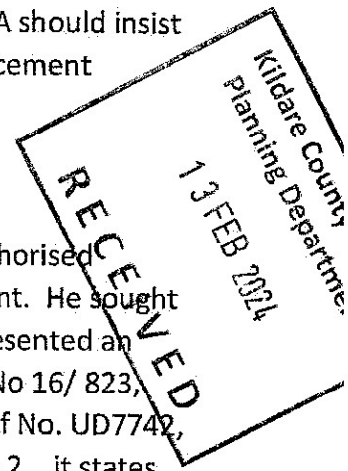
Mr Moore attempted to have this problem dealt with within the unauthorised development mechanism within Kildare Co Council Planning Department. He sought the LA's opinion on whether the piping of the stream in question, represented an unauthorised development in relation to planning application Pl. Reg. No 16/ 823, the aforementioned new Dwelling adjoining his lands. In the UD File Ref No. UD7742, the response from the UD Section, enclosed herewith, Marked DOC No 2 , it states that.... Quote...

*"Following a site inspection, it was confirmed that there is no breach in the requirements of Pl. Ref. 16/823(ABP Ref. PL09.248060) and the works carried out outside of the site boundaries are exempt from the requirement for planning permission."*

We disagree entirely with this decision. The decision is based on the incorrect assertion that the stream WAS NOT included within the RED LINE, outlining the site, on the Site Location Map or on the Site Layout Plan submitted with the aforementioned planning application. Following receipt of the UD decision, by email, I spoke to Mr Stephen Cunningham, Staff Officer in the UD Section, to seek clarity. He informed me that the inspector noted that the stream WAS NOT within the RED LINE which delineated the site boundary on the Maps accompanying the planning application and therefore the stream was deemed not to be part of the subject site .

We inspected the hard copy of the planning file, PL Reg Ref No 16/823. On 4<sup>TH</sup> March 2020, in the planning, office of the LA, and what we have found is totally at variance with the assessment of the LA's inspector, within the UD File.

Drg. No. 4111-01 is the Site Location Map which was lodged with the planning application, copy included herewith, Marked 'Map No 2', the Stream is clearly indicated on the Ordnance Survey Map and the RED LINE indicating the site boundary is clearly along the most south eastern boundary of the stream. The Site Layout Plan, Drg No 4111-02, enclosed herewith, Marked 'Map No 3', which was lodged in reply to the further information request on, 5<sup>th</sup> Jan 2017, also clearly shows the stream and the RED LINE which delineates the extent of the site is shown on the most south/eastern side of the stream. This clearly shows that the stream is indeed within the curtilages of subject site, as delineated in the documents lodged with Pl. App. Reg. Ref. No. 16/823 and any works to that stream must comply with the planning permission conditions, any deviation from this position represents non-compliance with the planning permission. Condition No 1 of the Grant of Planning



permission under File Ref No. 16/823 states that the development must be carried out strictly in accordance with the documents and drawings lodged with the application, save as where amended by a condition within the grant of planning permission. There was no suggestion that the stream was to be piped within the documentation lodged with the planning application.

Furthermore, Condition No 4& 5 required landscaping details to be submitted to the planning department, for their approval, prior to commencement of development. The applicant lodged the Landscaping Plan. The Landscape Drawing, Ref Dr-178, received by the LA in compliance correspondence on 31 July 2017, is enclosed herewith and marked Map No 4, indicates 'the open stream', it is not just shown, but specifically referred to in the notes on that drawing ..Quote:

**"1.8m High post and rail fence with childproof chain-link fencing incorporated into functional design alongside the open stream"**.

This is absolutely conclusive proof that the stream IS within the curtilages of the site boundary and IS NOT to be piped. There was no permission sought or granted to pipe this stream and all the documentation within this application file dictates that the piping, that has taken place, is an unauthorised development as it contravenes the conditions of the planning permission.

In fairness to the inspector/planner, who was involved in the UD assessment, there is a red line shown along the inside edge of the stream, on Drg No 178, and this may have well been construed as representing the rear boundary of the site, IT IS NOT, this red line is clearly indicated as representing the timber post and rail fence described above and this contention is clearly supported by the fact that a red line is shown either side of the entrance, to the front of the site ,again indicating New timber post and rail fence .

It is indisputable that the stream should be left open, as it has been historically, at no point within the documents or drawings, lodged in connection with the planning application, was it ever suggested that this application included the piping of the stream, quite the contrary, the fact that the stream is to remain open is clearly and unambiguously stated.

The piping of this stream is directly in contravention of the documentation and drawings lodged and the development has not been carried out strictly in accordance with those documents/drawings and the conditions contained in the grant of planning permissions contained in PI File Ref No 16/823 . Therefore, the piping of the stream is an unauthorised development, notwithstanding the assertion in the letter received from the UD section that *"the works outside the site are exempt from the requirement of planning permission "*, An exemption cannot be applied where it conflicts with the compliance with conditions within the grant of planning permission. There is no exemption in relation to the piping of this stream as it is an integral part of the planning application.

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A flood risk assessment was lodged with the planning application, this assessment was carried out by 'IE Consulting Water-Environmental-Civil'. We include herewith extracts from that report which we attained from the planning file in the LA's planning office .

The first extract from this report is marked DOC No 3 . The OPW Flood Map for the area is shown and the author refers:

*'Figure 4 above indicates no instances of recurring or historical flooding in the vicinity of the proposed development site'*

DOC No 5 the author refers to the historical 25 inch map on this extract :

*'The historic 6 inch and 25 inch mapping does not indicate any historical or anecdotal instances of flooding within or adjacent to the boundary of the proposed development site.'*

This confirms our client's contention that there was never flooding in this overall area, historically.

DOC Marked No 5 from the report refers within section 6.6.1 Hydraulic Analysis

*....the Ballybought Stream flows as an open channel watercourse .....*

*...The stream channel was observed to be free flowing and relatively free from any significant vegetation..*

The integrity of this report relies totally on the stream remaining as described above, an open channel watercourse

DOC NO 6 from the report refers within section 6.6.6

*....the twin 300mm pipe culverts in figure 17 below. These pipes were recently installed by Kildare County Council.*

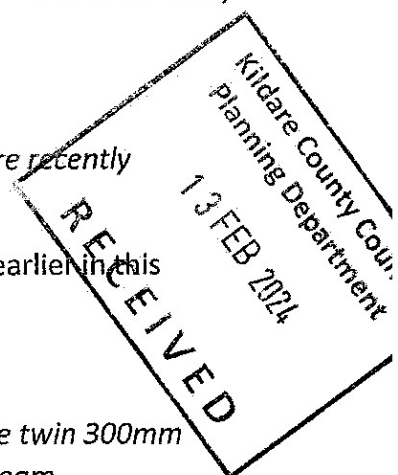
This statement concurs with our reference to the pipe installation earlier in this report.

DOC No 7 from the report refers within section 6.8 :

*Secondary flood risk can be attributed to a potential blockage of the twin 300mm pipe culverts located at the downstream end of the Ballybought Stream....*

*...In the event the culverts get blocked and begin to surcharge it is predicted that, based on the existing ground levels, flood waters would overtop the field access point above the culvert as shown in Figure 19 below . These flood waters would re-enter the stream on the downstream end of the twin culverts .....*

This assessment of secondary flood risk clearly demonstrates the Authors reliance on the Stream remaining an open channel watercourse and there is no suggestion anywhere that this stream can be piped. The Author specifically states that the secondary flood risk assessment in this section is *"Based on existing ground levels"*,



the piping and filling in of the Stream significantly altered the ground level and therefore the integrity of this report has been fatally flawed.

DOC No 8 from the report refers:

*Figure 19 – Twin culverts overtopping field access way.*

DOC No 9 from the report :

Zone C- Low to Negligible Probability of Flooding

*....not considered at risk of fluvial flooding and would not adversely affect adjacent lands and properties from a flood risk perspective.*

The area has been classed as Zone C within the report therefore there SHOULD NOT be flooding on the adjacent lands .

DOC NO 10 from the report refers

This section concludes That: *The proposed development WILL NOT RESULT in an adverse impact to the hydrological regime of the area.*

The Author of this report was correct in the conclusion reached, at the time, however, this Flood Risk Assessment is no longer fit for purpose it is now outdated as a result of piping and filling in of the Stream. The integrity of this entire report relied on the Ballybought Stream remaining an open channel watercourse, as it has always been historically.

The action of piping the stream represents non-compliance with the planning permission granted under PI File Reg Ref No 16/823. The Flood Risk Assessment was lodged in support of this application and as so it is an integral part of the planning permission which was granted. The drainage in this area has been seriously interfered with by the action of piping and represents a breach of the conditions contained within the planning grant, the development was to be carried in strict accordance with all the documentation lodged on the planning file .

## K. CONCLUSION

- (i) The reinstatement of Mr Moore's lands, to the condition they were in prior to Autumn/Winter 2020 , is of paramount importance as the current situation is resulting in serious losses to him, loss of his flock, both from death of animals and the decrease of his flock numbers. Loss related to various conditions within his flock as a result of the flooding and wet condition over c.2 Ha. of his lands.
- (ii) The flooding has been caused, it did not just appear by itself. The only logical answer to the question as to what caused the flooding is that the piping of




the stream is obstructing the natural flow of the stream and the water can only disperse over the surrounding fields, due to saturation the field is then flooding.

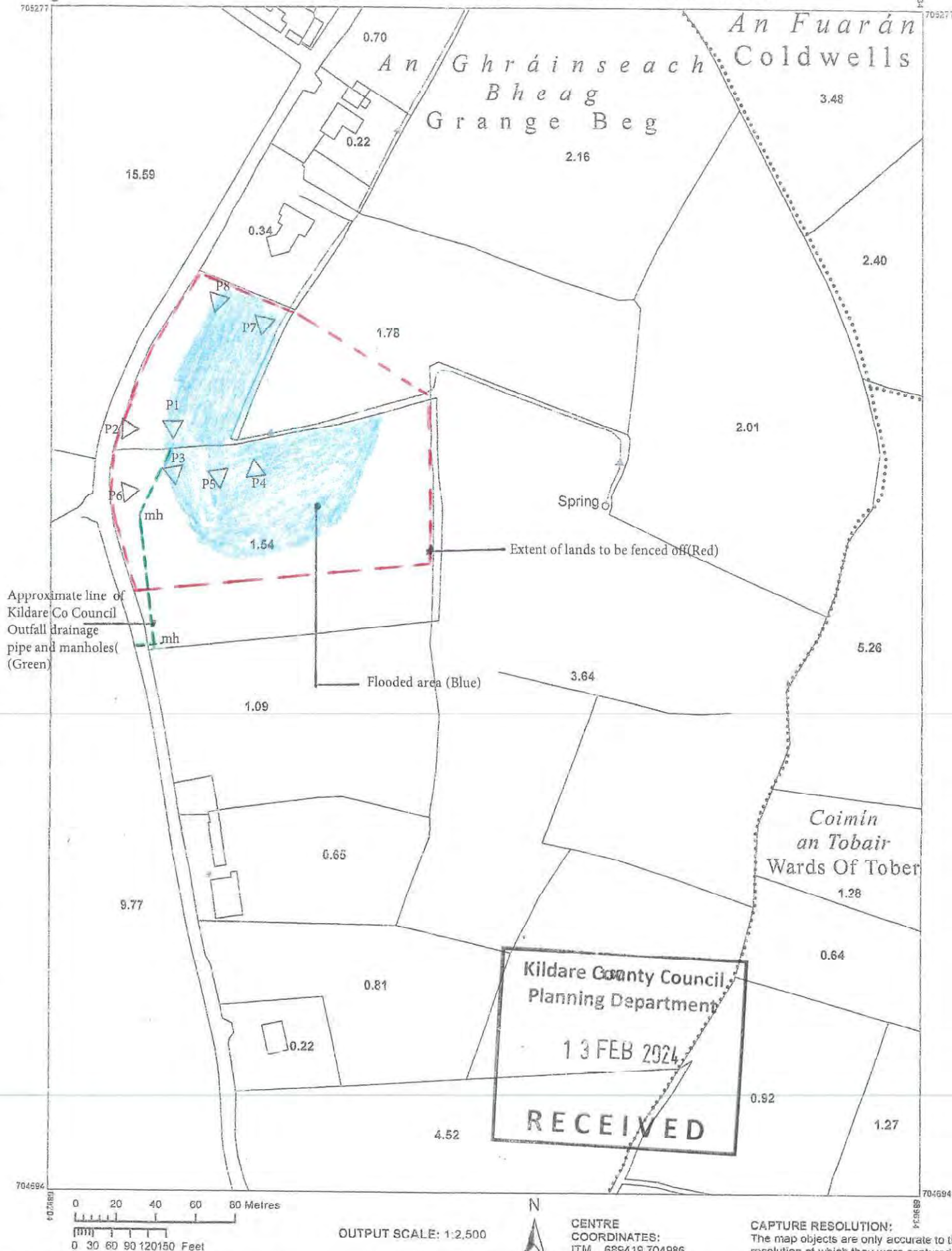
- (iii) Mr Moore cannot relieve the situation himself as the stream is not on his property, it is within the curtilages of adjoining site. There are no remedial works he can carryout to alleviate the flooding, he has attempted to clear the drain and stream but it has proven to be of little or no use.
- (iv) Kildare Co Council Roads Section have responsibility for road drainage and storm water management within the County. The outfall drain on our clients land was carried out in discharging that responsibility. We do not content that the LA's Roads Section are responsible for the flooding on these lands and we have offered our opinion on what caused this situation and the possible way to solve it.
- (v) The reopening of the stream WILL SOLVE the flooding problem on Mr Moore's lands. How the LA set about achieving this is obviously up to them, however, we have offered an opinion on the possible measures that the LA could take. Whether they choose the first option, treating the piping as an unauthorised development, based on the premise that it represent interference with the road drainage or treat it as a non-compliance issue with the planning permission granted under PI App Reg Ref No 16/823 is obviously up to them. The LA may consider that they have other options which they can employ to have the Stream reinstated to its historic open water course status.
- (vi) Mr Moore could well have considered other options regarding the outfall drain, where he could have blocked the pipe coming into his fields and closed off cuttings in the embankments. He did not consider this as an option as he is completely aware of the benefit of this particular outfall drain to the integrity of the public road, a stretch of road travelled on a regular basis by himself, his family and his neighbours.
- (vii) Finally, we would ask the LA to give urgent consideration to the predicament that our client finds himself in. We would ask the LA to consider also the possible adverse effects that this situation would have, if allowed to continue, on the Roads Section ability in getting the same cooperation, for similar type of outfall drainage, through other farmers lands.

We trust the LA roads Section will carefully consider this submission and revert to us at the earliest possible time.

Signed:

  
Joseph J Warren Tech Eng. Dated 21<sup>st</sup> March 2022





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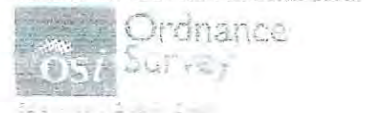
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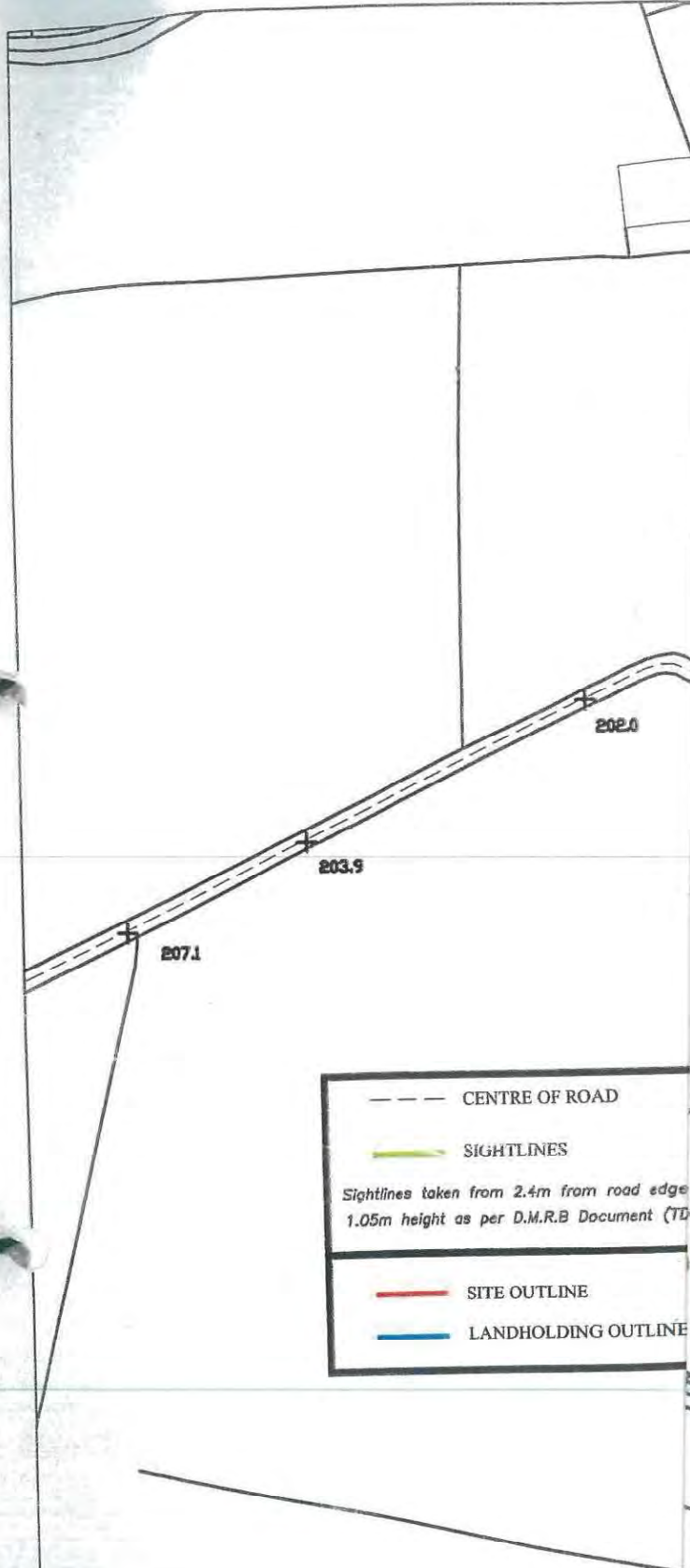


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FLOOD REPORT FOR Mr Tom Moore

Map No 2



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# REPORT FOR MR TOM MOORE

MAP NO 4

## PLANTING PROGRAMME

All planting is to be carried out within the first winter (planting) season following completion of the proposed buildings during the months of November to March.

All areas for planting are to be topsoiled with a minimum depth of 400mm to all shrub and hedgerow areas and 1000mm to all tree pits. Topsoil should be free from stones over 50mm diameter and should not be spread during wet weather as this leads to compaction and the destruction of the soil profile.

### Tree Planting

All trees are to be supplied bareroot during the months of November to March, inclusive. Trees are to be planted at the locations on the landscape plan in tree pits 900 x 900 x 800mm and backfilled with clean topsoil. Tree stakes should be located to the side of the tree before backfilling. All trees are to be staked with two knee high posts and crossbar, tied with flexible rubber ties.

### Shrub & Hedgerow Planting

All shrubs and hedgerow plants are to be supplied bareroot or containerised as specified. Bareroot stock is to be planted during the winter season. All shrubs are to be planted at the densities specified. The area for planting is to be weed free and cultivated to a depth of 230mm prior to planting.

## MAINTENANCE PROGRAMME

### Shrub Aftercare

All areas of shrub planting are to be mulched with a medium grade bark mulch to a minimum depth of 50mm, spread evenly over all areas, suppressing the emergence of weeds. As bark mulch is a natural material it will degrade over time. Therefore it should be replenished every 2-3 years.

### Hedgerow Aftercare

All hedgerows are to be maintained at a maximum height of 2.5m. Pruning to take place mid to late summer. All areas of hedgerow are to be surfaced with bark mulch to a depth of 50mm.

### Tree Aftercare

A circular space with a radius of 500mm should be kept bare around the base of the tree to prohibit the growth of grass and weeds as this only increases the competition for soil moisture.

All tree ties and stakes should be checked at yearly intervals and adjusted as the tree develops and removed once the tree has become established, usually five years after planting.

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| REV. | DESCRIPTION | DATE | BY |
|------|-------------|------|----|
|      |             |      |    |

DATE: July 2016

JOB NUMBER: DR-178

SCALE: 1:500

DRAWN: G. SMITH  
B.Sc.H.

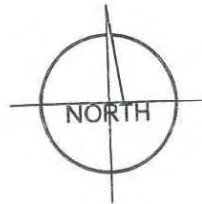
## KEY TO LANDSCAPE TREATMENT



PROPOSED TREE PLANTING  
(see schedule)

H1

PROPOSED HEDGEROW PLANTING  
(see schedule)



NEW TIMBER POST

NATIVE HEDGEROW & TREE PLANTING TO SUPPLEMENT EXISTING PLANTING WHERE NECESSARY INSIDE THE BOUNDARY. THE HEDGEROW IS TO BE SET BACK 400mm FROM THE BOUNDARY LINE AND THE AREA BENEATH SURFACED WITH A MEDIUM GRADE BARK MULCH AT 50mm DEPTH TO HELP SUPPRESS WEED GROWTH AND ENCOURAGE ESTABLISHMENT OF HEDGEROW.

EXISTING NATIVE TREES TO BE RETAINED

GRAVEL NATURE WONDERMENT PATH

NEW TIMBER POST & RAIL

ASH TREES ARE TO BE PLANTED WITHIN THE HEDGEROW BOUNDARIES IN THE S...

### KEY TO RANDOM ORCHARDS

| DISTRIBUTED RANDOMLY | BOTANICAL NAME | COMMON NAME |
|----------------------|----------------|-------------|
|                      | EVERSTE        | CRAB APPLE  |
|                      | COX'S ORANGE   | APPLE       |
|                      | GLEN CLOVA     | RASBERRY    |
|                      | PLUM           | PLUM        |

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GRAVEL

FLOOD REPORT Mr Tom Moore Photo 161



Planning Department

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FLOOD REPORT MR TOM MOORE Photo No 2

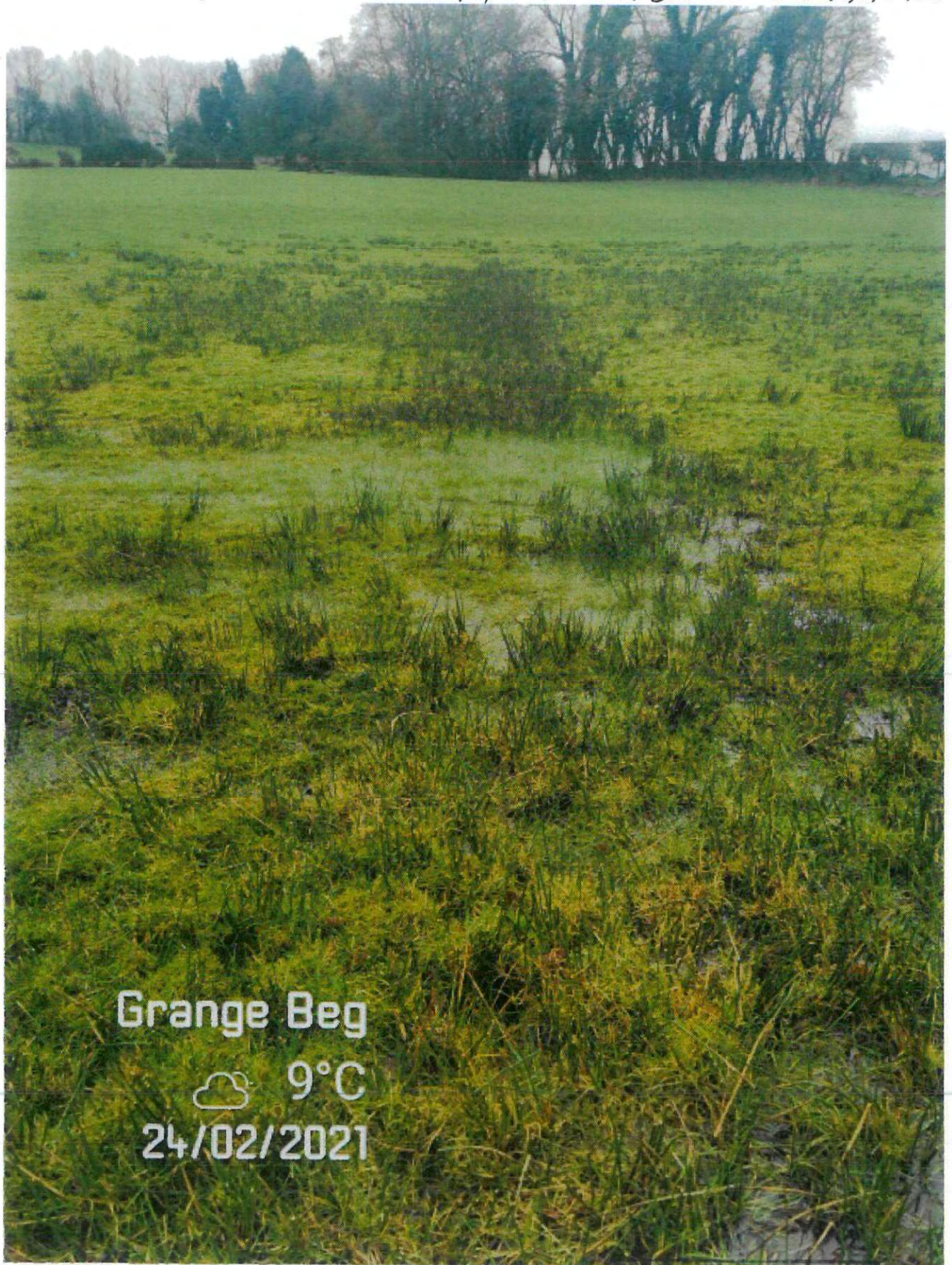


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Planning Department

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FLOOD REPORT MR. TOM MOORE PHOTO NO 3



Grange Beg



9°C

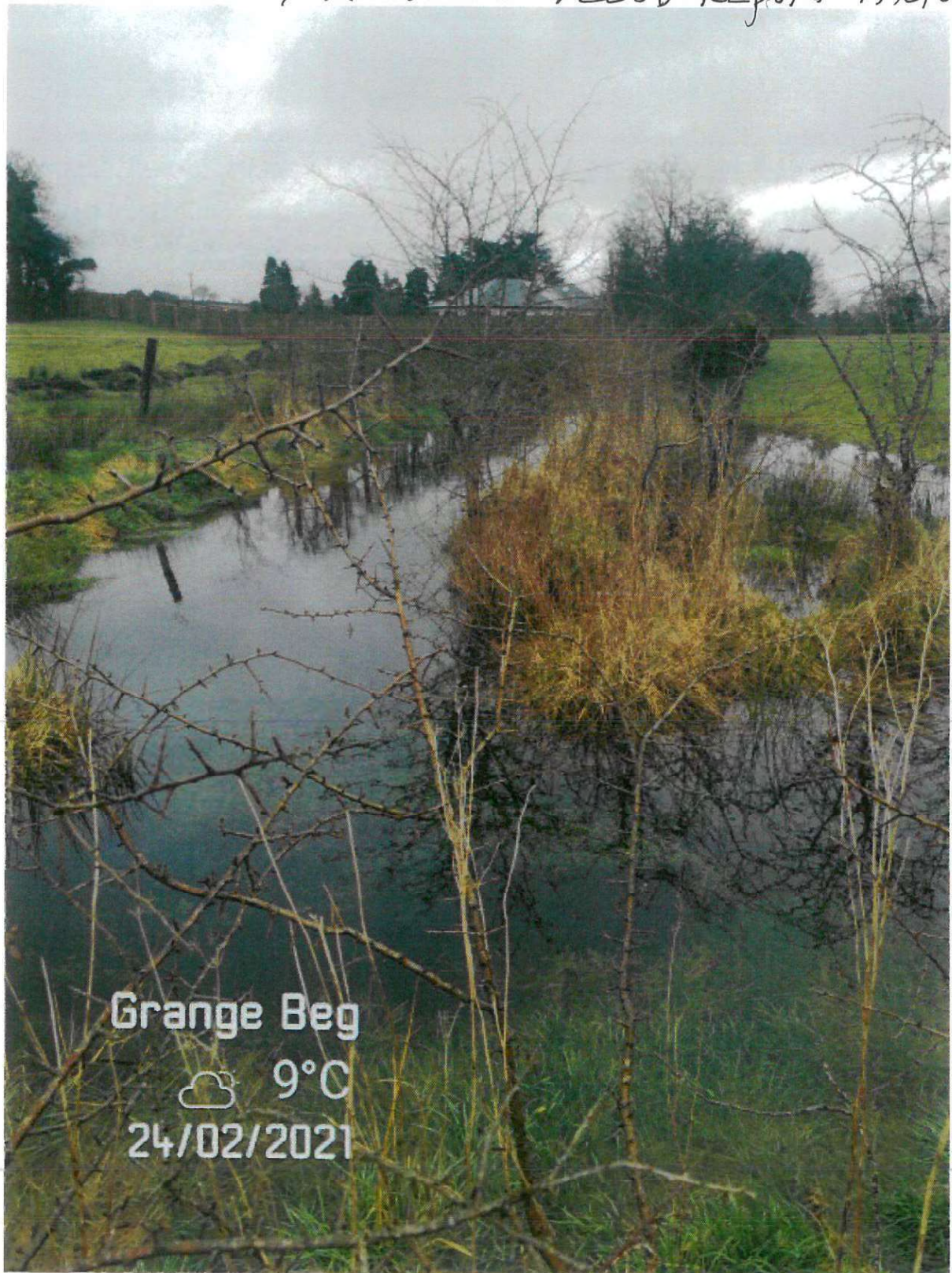
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MR TOM MOORE FLOOD REPORT PHOTO NO 4



Grange Beg



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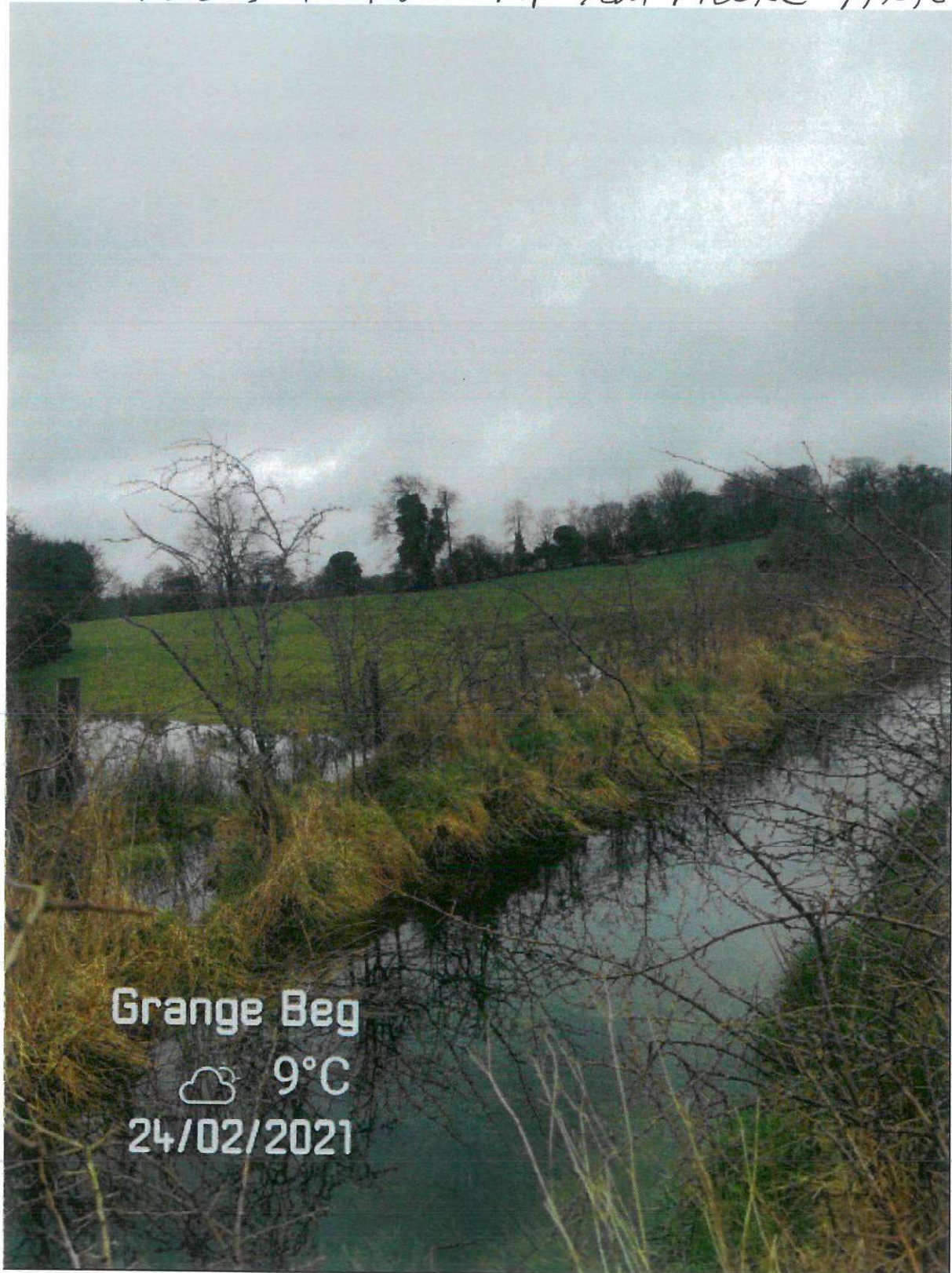
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FLOOD REPORT MR TOM MOORE PHOTO NO 5



Grange Beg



9°C

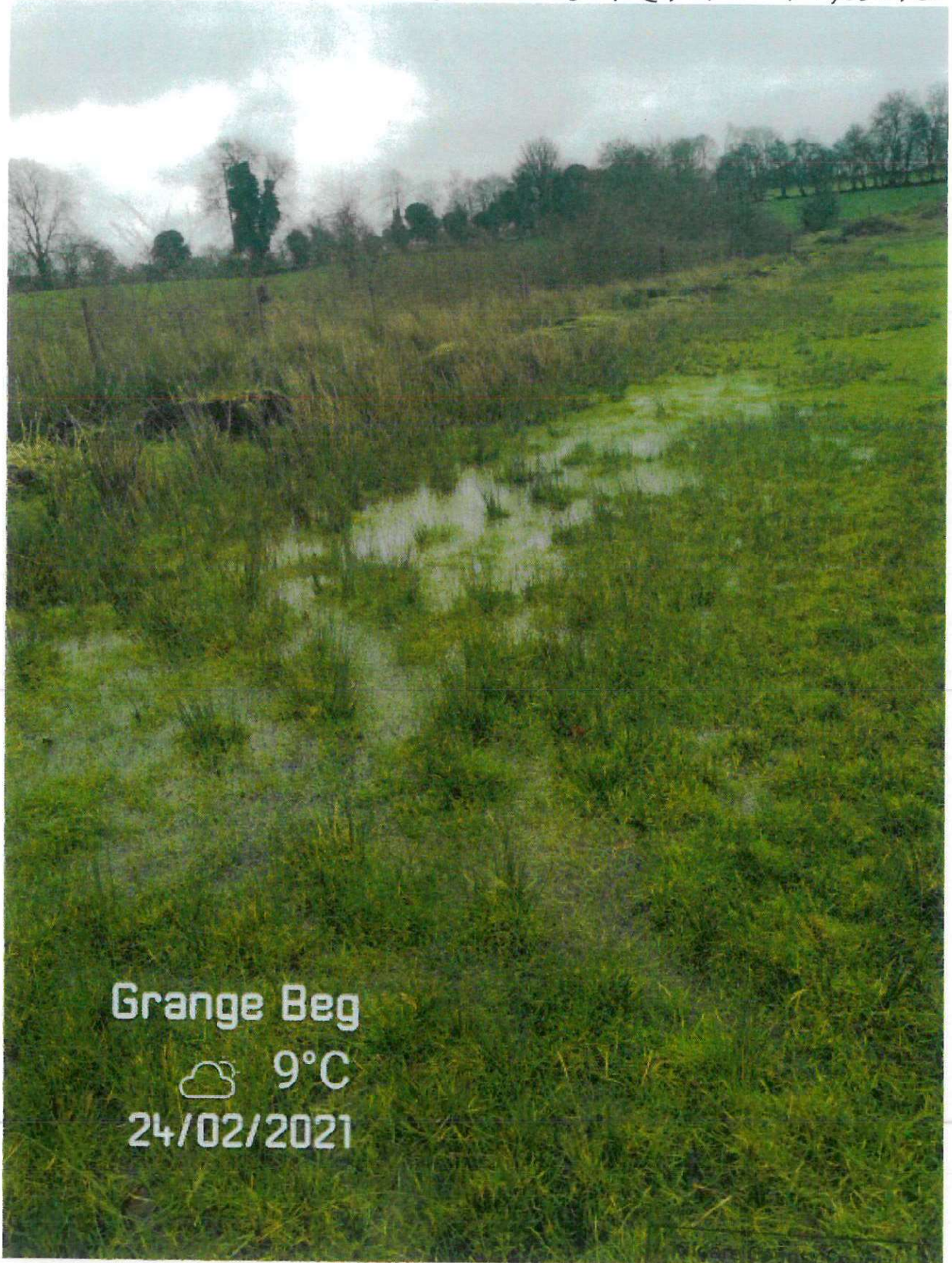
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MR TOM MOORE FLOOD REPORT PHOTO No 6



Grange Beg



9°C

24/02/2021

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Planning Department

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FLOOD REPORT MR TOM MOORE PHOTO NO 7



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Planning Department

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FLOOD REPORT MR TOM MOORE PHOTO No 8



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Doc No. 1.



*Seirbhíse Comhairleacha agus Oiliúna*  
BÓTHAR NA MAINISTREACH  
An Nás, Co. Chill Dara  
*Advisory and Training Services*  
FRIARY ROAD  
Naas, Co. Kildare  
Tel: 045-879203/897205 Fax: 045-879093  
W91 HP38



03 March 2022

To whom it may concern,

I have been asked by Mr. Thomas Moore of Grangebeg, Dunlavin, Co. Wicklow (Kildare) to inspect and report on the condition of part of his farmlands at Grangebeg which he claims are now damaged and in a poor state of production as a consequence of restricted drainage capacity and additional surface waters being diverted from the adjacent public road arising from a drain inserted by the Local Authority in or around 2016.

I visited the site of this claim on Thursday 17 February 2022 and spoke with Mr. Moore.

Having examined the site in question, it is very clear to me that there is an area of land near a small valley that is very wet and not trafficable by machinery or livestock including sheep. The Local Authority drainage pipe location is clearly visible as there is a stone filled channel just about visible running along the ground starting at the road boundary of the land and running downhill towards a small stream at the base of a small valley. There is considerable rush growth and rough land where this flooded area exists adjacent to the watercourse.

I was informed that there had been an open drain running from this area along the boundary of the adjacent new dwelling that is now piped and filled in. The watercourse here is now no longer visible although the end of the pipe appears to be present under the water level. There is a fence running along the watercourse on Mr. Moore's lands leading to this area. I was informed that his neighbour filled in and piped this watercourse, it being the boundary between the two premises.

Having examined the land, it is clearly unsuitable for grazing stock on and would be a source of infection to the farmers sheep for Liverfluke and waterborne ticks and nematodes. As an agriculturist I would have to recommend that the area be fenced off and abandoned from an animal health point of view and from a machinery perspective for the control of invasive vegetation growth.

It appears that the combination of the watercourse flow added to the additional flood waters from the public road, combined with the infilling of the old open drain is directly responsible for the current flooding situation which appears to be relatively recent in nature. As Mr. Moore stated to me that the watercourse was filled in around 2020 with a small pipe inserted, I can not disagree with his statement as the vegetation present is relatively new and is only getting established.

I can only conclude that the infilling of the drain combined with the additional drainage waters has directly led to the present flooding and that there has been a failure by the Local Authority to ensure that there continues to be adequate drainage capacity to remove these two water sources now combined. In effect the additional road drainage has contributed to

the problem and no additional maintenance measures to ensure adequate capacity to drain these waters can be carried out by Mr. Moore as he is not the owner of the lands where the open drain, now filled in exists.

Yours sincerely,



087 6458543

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Planning Department

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Comhairle Contae Chill Dara  
Kildare County Council



**Planning Department**  
PLANNING CONTROL SECTION  
045-980839

Doc No 2

**Our Ref: UD7742** (Please quote this reference in future correspondence)  
**19<sup>th</sup> April 2021.**

Mr. Thomas Moore,  
Grangebeg,  
Dunlavin,  
Co. Kildare.  
W91VHHO.

**RE: Development – Grangebeg, Dunlavin, Co. Kildare**

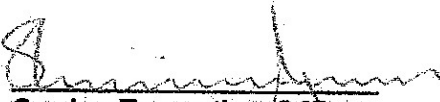
Dear Mr. Moore,

I refer to the above development and your complaint received in respect of same.

Following a site inspection, it was confirmed that there is no breach in the requirements of Pl. Ref. 16/823 (ABP Ref. PL09.248060) and the works carried out outside of the site boundaries are exempt from the requirement for planning permission. Accordingly, there is no planning enforcement action to consider and the Planning Authority has closed this case. You will need to seek your own independent legal advice in relation to any civil case as this is not a matter for the Planning Authority and we cannot advise you in this regard.

I would also strongly advise you to contact the Kildare/Newbridge Municipal District Office directly in relation to any issues with surface water draining from the public road to your land/drains.

Yours sincerely,

  
**Senior Executive Officer,**  
**Planning Department.**



Doc No. 3

#### 4.3 OPW Flood Maps Website

The OPW Flood Maps Website ([www.floodmaps.ie](http://www.floodmaps.ie)) was consulted in relation to available historical or anecdotal information on any flooding incidences or occurrences in the vicinity of the proposed development site. Figure 4 below illustrates mapping from the Flood Maps website in the vicinity of the proposed development site.

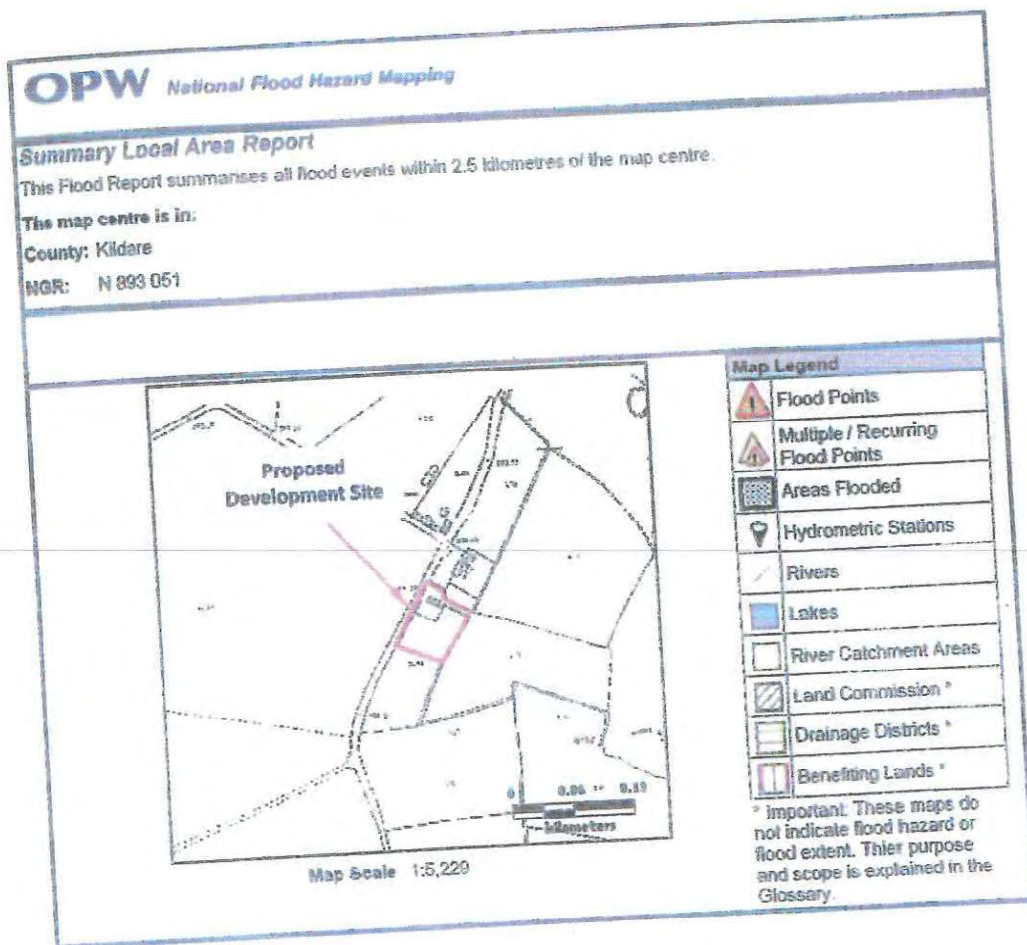
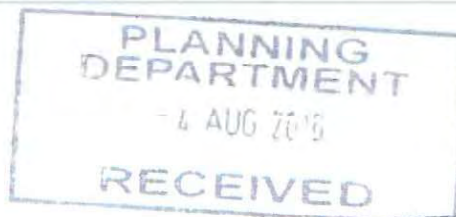


Figure 4 - OPW Flood Maps

Figure 4 above indicates no instances of recurring or historical flooding in the vicinity of the proposed development site.





The historic 4-inch and 25-inch mapping does not indicate any historical or anecdotal instances of flooding within or adjacent to the boundary of the proposed development site.

The alluvium deposit maps of the Geological Survey of Ireland (GSI) were consulted to assess the extent of alluvium deposits in the vicinity of the proposed development site. Alluvium deposits can be an indicator of areas that have flooded in the recent geological past. Figure 7 below illustrates the GSI River Basin District sub-soils mapping for the general area of the proposed development site.

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## 6.6 Hydraulic Analysis of the Ballybought Stream Channel

### 6.6.1 Hydraulic Analysis

As illustrated in Figure 13 below, the Ballybought Stream flows as open channel watercourses adjacent to the eastern boundary of the proposed development site. The Ballybought Stream is conveyed via twin 300mm pipe culverts at the north-eastern corner of the site. A survey of the stream and culvert was undertaken on the 19<sup>th</sup> of July 2016. The watercourse channel was surveyed at the cross-sectional locations shown in Figure 13 below. The stream channel was observed to be free flowing and relatively free from any significant vegetation.

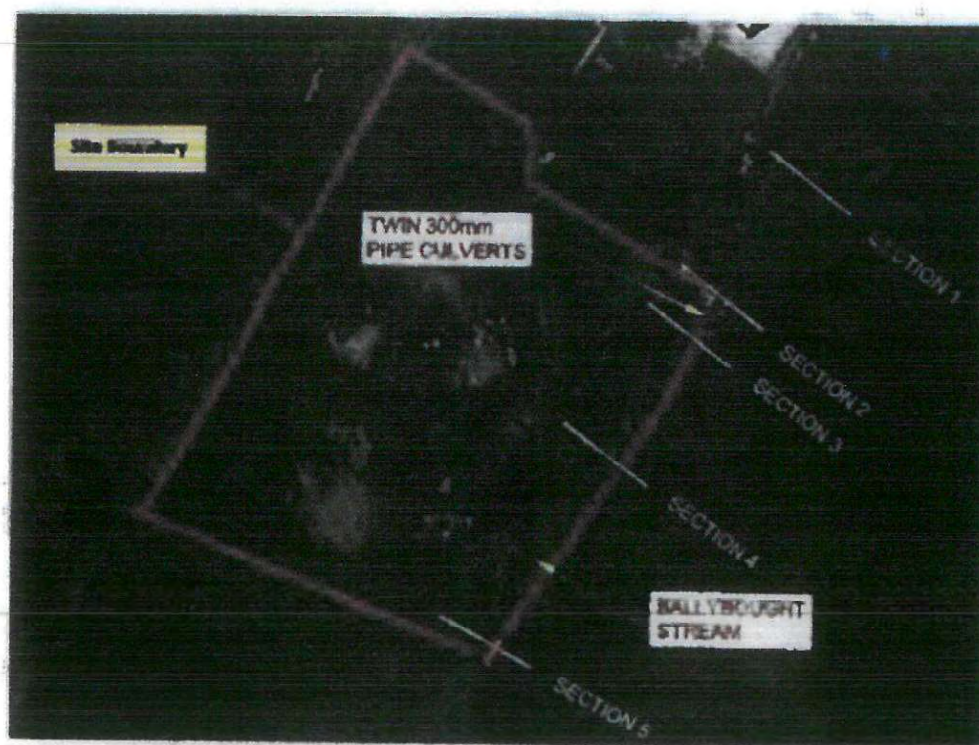


Figure 13 - Ballybought Stream



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Figure 16 – Section 4 Looking Downstream

#### 6.6.6 Initial Preliminary Hydraulic Model Development

A total channel length of approximately 77m between Sections 1 and Section 5 along the stream watercourse channel was modelled as shown in Figure 13 above. The cross-sections surveyed were geo-referenced and incorporated into the model together with the twin 300mm pipe culverts as shown in Figure 17 below. These pipe culverts were recently installed by Kildare County Council at this location.



## 6.7 Flood Zone Mapping & Delineation

Utilising the results of HEC-RAS model and the DTM illustrated in Figure 14 above, and the predicted 1 in 100 year (1% AEP) and 1 in 1000 year (0.1% AEP) extreme fluvial flood levels for the Ballybought Stream adjacent to the proposed development site, flood zones were delineated using the hydrology module of an appropriate software package. The software enables a user defined flood level to be mapped and modelled onto a DTM over the extent of an assessed watercourse reach length.

The highest topographical elevation within the boundary of the proposed development site is 198.473m OD, which is located at the south-western corner of the site. The lowest topographical elevation within the site is 195.87m OD, which is located at the northern boundary of the site.

The DTM illustrated in Figure 15 above indicates that the northern area of the existing site is below the 1% AEP predicted fluvial flood levels and the 0.1% predicted flood levels listed in Table 5 above. Drawing Number IE1212-002-A, Appendix A illustrates the delineated 1 in 100 year (1% AEP Flood Zone 'A') and 1 in 1000 year (0.1% AEP Flood Zone 'B') predicted fluvial flood extents over the full extent of the site. The area where development is proposed at the site (dwelling house, garage & wastewater treatment system) is not located within the mapped 1 in 100 year or 1 in 1000 year flood extents and therefore falls within Flood Zone 'C'. A very small area of Flood Zone 'B' (approximately 2m<sup>2</sup>) is mapped as potentially encroaching within the driveway area of the proposed development, however this is considered as negligible in the context of the proposed development works.

## 6.8 Assessment of Secondary Flood Risk

Secondary flood risk can be attributed to a potential surcharge due to blockage of the twin 300mm pipe culverts located at the downstream end of the Ballybought Stream adjacent to the north-eastern boundary of the proposed development site. The existing ground levels above the field access culverts were examined during the site visit by a Hydrological Engineer from IE Consulting. The field access point is approximately 1.4m lower than the site levels as shown in Figure 19 below. In the event the culverts become blocked and begin to surcharge it is predicted that, based on existing ground levels, flood waters would overtop the field access point above the culverts as shown in Figure 19 below. These flood waters would re-enter the Ballybought Stream on the downstream end of the twin culverts and not enter the area of the proposed development site.

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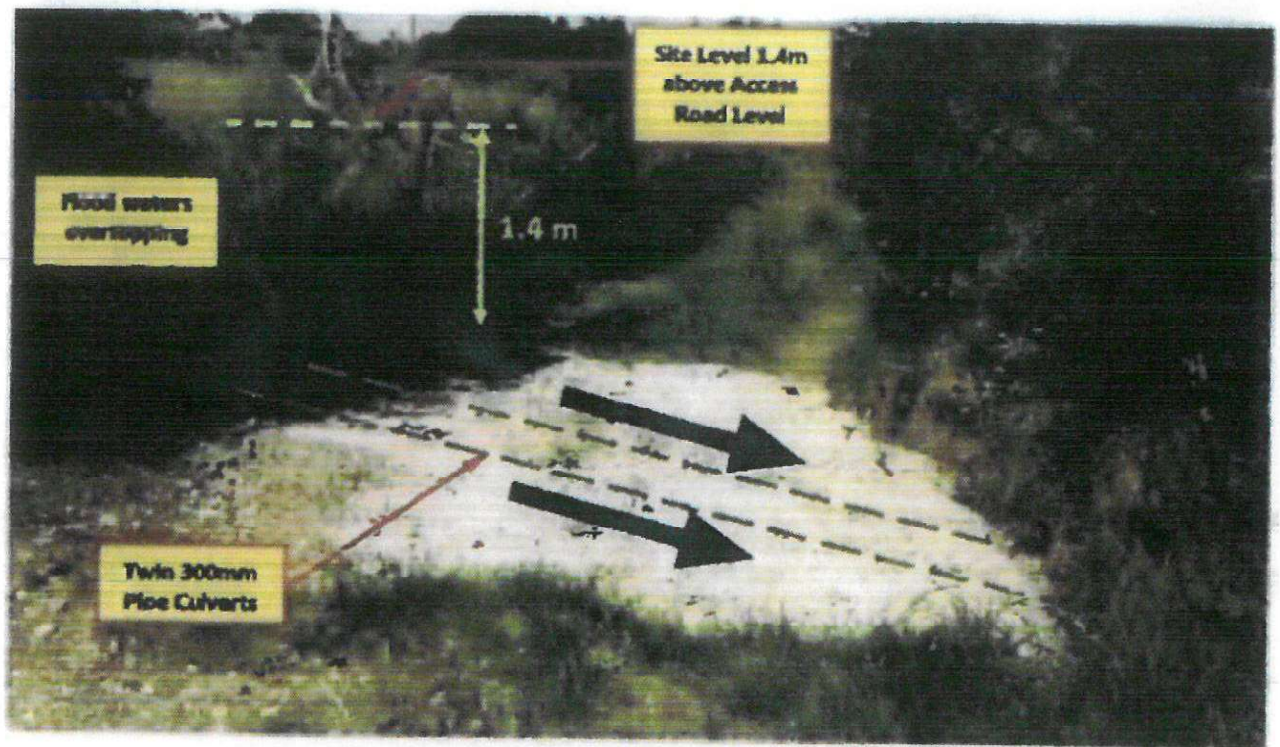


Figure 19 – Twin Culverts Overtopping Field Access Way

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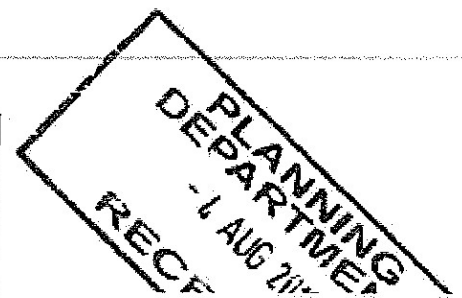
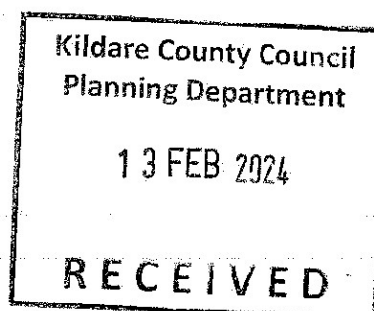
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Zone C – Low to Negligible Probability of Flooding. Development in this zone is appropriate from a flood risk perspective. Developments in this zone are generally not considered at risk of fluvial flooding and would not adversely affect adjacent lands and properties from a flood risk perspective.

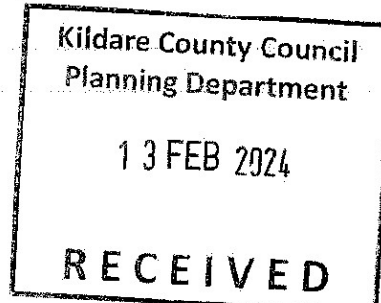
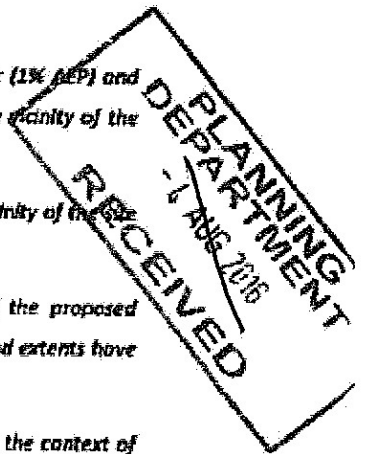
This flood risk assessment has determined that the proposed development site falls within Flood Zone 'C'. In accordance with the 'Planning System & Flood Risk Management Guidelines, DOEGLG, 2009' the site is not subject to the Justification Test.



## 8 Summary Conclusions & Recommendations

In consideration of the findings of this site specific flood risk assessment and analysis the following conclusions and recommendations are made in respect of the proposed development site:

- A Site Specific Flood Risk (SSFRA) assessment, appropriate to the type and scale of development proposed, and in accordance with 'The Planning System and Flood Risk Management Guidelines - DoEHG-2009' has been undertaken.
- The area of the proposed development site has been screened, scoped and assessed for flood risk in accordance with the above guidelines.
- The primary flood risk to the proposed development site can be attributed to a fluvial flood event in the Ballybought Stream.
- Secondary flood risk can be attributed to potential blockage of a twin 300mm field access culvert on the Ballybought Stream located adjacent to the north-eastern corner of the proposed development site. In the event the culverts become blocked and begin to surcharge it is predicted that flood waters would overtop the access point and re-enter the Ballybought Stream on the downstream end and not enter the proposed development site.
- A hydrological analysis has been undertaken to estimate the predicted 100 year (1% AEP) and 1000 year (0.1% AEP) flood volumes + climate change in the watercourse in the vicinity of the proposed development site.
- A detailed hydraulic analysis of the stream channel and existing culverts in the vicinity of the site has been undertaken.
- A detailed Digital Terrain Model (DTM) has been developed for the area of the proposed development site. Utilising the DTM the predicted 1 in 100 and 1 in 1000 year flood extents have been delineated over the full extent of the DTM.
- In consideration of the findings of this Site Specific Flood Risk Assessment, and in the context of 'The Planning System & Flood Risk Management Guidelines - 2009' the area where development is proposed at the site falls within Flood Zone 'C'. The proposed development is therefore considered to be appropriate from a flood risk perspective, and not subject to the requirements of The Justification Test.
- The proposed development will not result in an adverse impact to the hydrological regime of the area and is therefore appropriate from a flood risk perspective. Overall, the flood risk to the proposed development is considered to be LOW.



# OSi PLACE Map

Section 5 Declaration Application by Thomas Moore  
Site: Grangebég, Dunlavin, Co. Kidare W91AHC9  
Drg: Location Map; Drg By Joseph J Warren Tech Eng

An Fuarán Coldwells

An Ghráinseach  
Bhéag  
Grange Beg

15.59  
SITE LOCATION  
IN RED

STREAM  
PIPED AND  
FILLED IN  
BLUE 'X'-'Y'

Spring

TOM MOORES  
LANDS  
IN GREEN  
(Applicant)

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Colmin  
an Tobair  
Wards Of Tober

0 20 40 60 80 Metres  
0 30 60 90 120 150 Feet

OUTPUT SCALE: 1:2,500



CENTRE  
COORDINATES:  
ITM 689419,704888

PUBLISHED: 16/03/2022  
MAP SERIES: 1:2,500  
1:5,000  
ORDER NO.: 50256819\_1  
MAP SHEETS: 3760-C  
3838

CAPTURE RESOLUTION:  
The map objects are only accurate to the  
resolution at which they were captured.  
Output scale is not indicative of data capture  
scale.  
Further information is available at:  
<http://www.osi.ie>; search 'Capture Resolution'  
LEGEND:  
<http://www.osi.ie>; search 'Large Scale Legend'

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**SITE OUTLINED  
IN RED**

Open Stream \_\_\_\_\_

**DWELLING GRANTED  
PLANNING  
PERMISSION  
UNDER PI Ref No  
16/ 823**

Stream filled in shaded Brown \_\_\_\_\_

Pipe laid in stream in Blue \_\_\_\_\_

Kildare County Council  
Planning Department

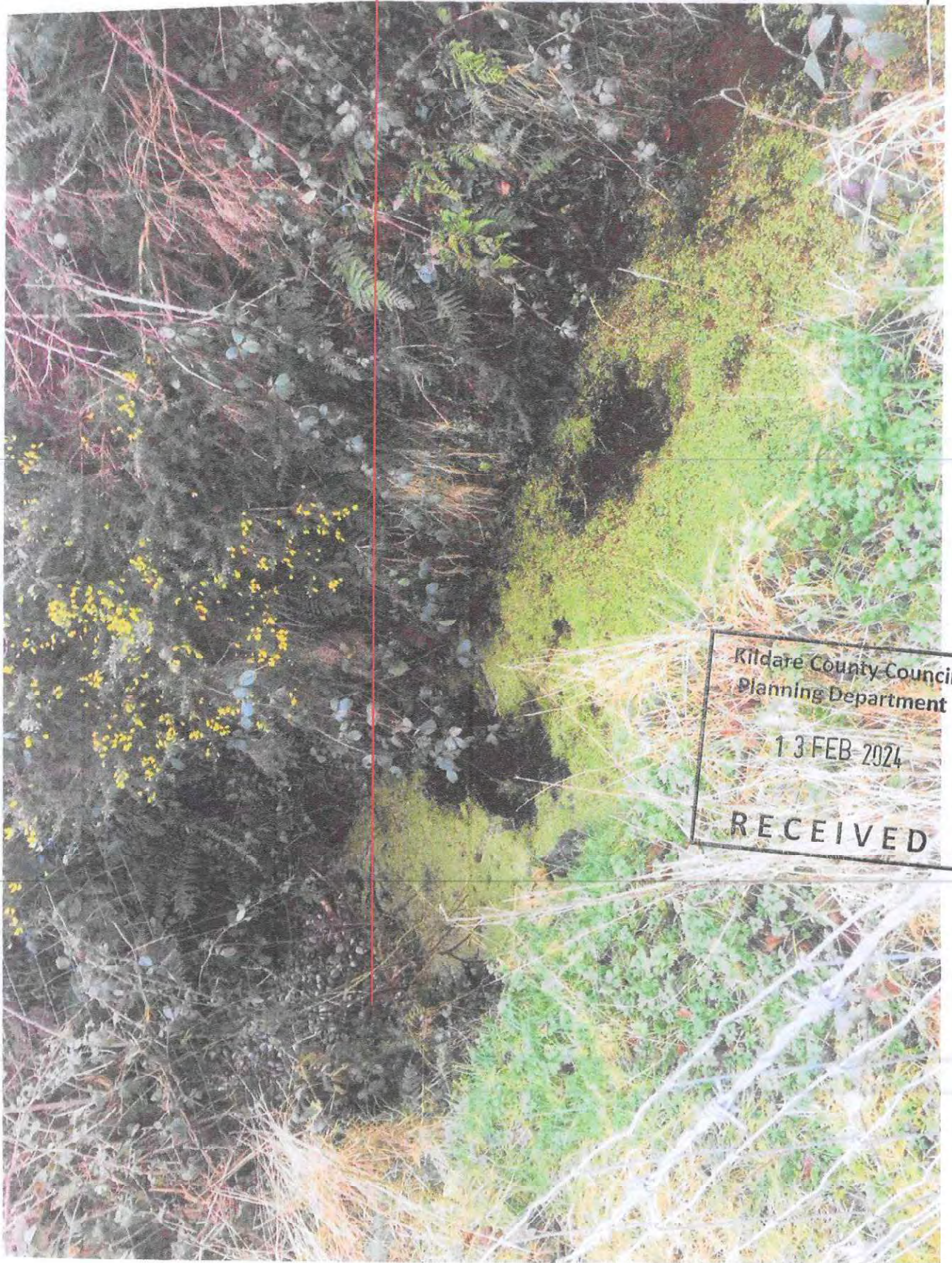
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Open Stream \_\_\_\_\_

**SECTION 5 DECLARATION APPLICATION BY THOMAS MOORE  
SITE : GRANGEBEG, DUNLAVIN, CO. KILDARE W91AHC9  
Drg: Site Layout Plan ; Scale 1:500 Drg By Joseph Warren Tech Eng.:**

LOCATION 'Y' ON  
ENCL. SITE MAP  
STREAM PIPED  
AND FILLED-IN



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FINANCE CASH OFFICE  
Kildare County Council  
Áras Chill Dara  
Devoy Park  
Naas  
Co. Kildare  
13/02/2024 14:44:15

Receipt No. : FIN1/0/496480  
\*\*\*\*\* REPRINT \*\*\*\*\*

Joseph J Warren

*Thang Moore*  
*(Applicant)*

PLANNING EXEMPT DEVELOP FEES 80.00  
GOODS 80.00  
VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :  
Cash 80.00

Change : 0.00

Issued By : Sally Pallister Finance Section  
From : Financial Lodgement Area  
Vat reg No.0440571C