

Date: 13<sup>th</sup> June 2024. Our Ref: ED/1128.

Padraig Hanly, c/o Aidan Kelly, Molough, Newcastle, Clonmel, Co. Tipperary.

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

Dear Sir/Madam,

I refer to your correspondence received on 21st May 2024 in connection with the above. Please find enclosed Receipt no. FIN1/0/499898 in relation to fee paid.

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/001128.

WHEREAS a question has arisen as to whether a storage shed for machinery, straw and hay at Ardrass Upper, Straffan, Co. Kildare is exempted development

AS INDICATED on the plans and particulars received by the Planning Authority on 21st May 2024

AND WHEREAS Padraig Hanly 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);
- (b) Articles 6 of the 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, 4, and 5 of the Planning and Development Act 2000 (as amended);
- (b) 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 storage shed for machinery, straw and hay at Ardrass Upper, Straffan, Co. Kildare

**IS development and IS NOT EXEMPTED development** pursuant to Section 2, 3, 4 and 5 of the Planning and Development Act as amended and Article 6, Article 9 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.

13th June 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/1128		
Name Of Applicant(s):	Patrick Hanly	
Address Of Development:	Ardrass Upper, Straffan, Co. Kildare	
Development Description:	Storage shed for machinery, straw and hay	
Due date	18 <sup>th</sup> June 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 to erect a storage shed for machinery, straw and hay, is or is not exempted development.

#### **Site Location**

The site is located over 62.33hs in the townland of Ardrass Upper, Straffan, County Kildare. The site is adjacent to the R403 to the north and Ardrass Road to the southeast. Development in the area consists of agricultural buildings and low-density rural housing.

#### **Description of Proposed Development**

The proposed development consists of the erection of an agricultural storage shed for machinery, straw and hay. The proposed shed will have a floor area of 279sqm and a height of 9.530 meters at its highest point. According to the documents submitted to the Planning Authority the location of the proposed shed is 205m from the nearest public road. The structure shall have a mono-pitch roof which appears to have a corrugated metal roof in the plans/sections submitted.

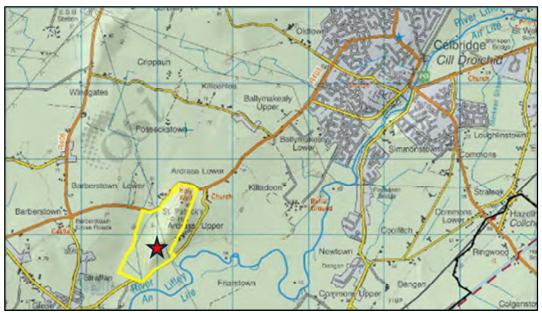


Fig 1: Site Location and context (proposed shed denoted with red star)



Fig 2: Aerial view of subject site (GIS)

#### **Planning History**

Application **19/971** - Full planning permission granted to Padraig and Jean Hanly for the following;

- Construction of 1 no. two—storey five-bedroom farmhouse (including farm / home office) with adjoining single storey garage connected via single—storey bootroom to be served by 1 no. new vehicular access from Lovers Lane / Ardrass Road, proprietary wastewater treatment system / percolation area and private bored well ( potable water supply):
- 2) Construction of farmyard complex with associated farm access roads to serve overall livestock farm of 62.33 hectares (154 acres) comprising; (a) 1 no. cubicle shed with loose bedding area for the housing of cattle, storage area and underground effluent tanks with solar panels provided on the southern roof elevation of the building; and (b) 1 no. concrete apron incorporating 2 no. silage pits;
- 3) Construction of 1 no. 16m wind turbine; and

4) All ancillary works necessary to facilitate the development include SuDS water drainage, landscaping and boundary works.

Following the initial application on the 17/10/2019, clarification for further information was sought for the below points;

- The applicant was requested to submit photomontages/sections of alternative site locations for the proposed dwelling.
- The applicant was requested to submit a phasing plan and an Archaeological impact Assessment for the development.
- Details of the measures to be taken to ensure no contaminated water would enter field ditches during/post construction was also requested.
- The applicant was requested to submit a revised Site Layout Plan showing;
  - (a) The proposed spreadloads for all liquid and solid wastes generated by the agricultural development and
  - (b) The exact location of the well and wastewater treatment systems and
  - (c) The location of all existing structures on the site.
- Details of the extent of the hedgerows to be removed to accommodate new internal rows, the site entrance and any other risks to the existing hedgerows were to be submitted.
- The applicant was also asked to clarify if an Environmental Impact Assessment was to be included as was indicated on the application form.

Responses to the above items were received and most of the outline items were addressed. One of the key amendments at this stage was that the wind turbine was no longer proposed as part of the application. On the 16/2/2020, clarification for further information was sought for the second time on the below points;

- The applicant was requested to submit photomontages and sections to illustrate the visual impact of the development on the local landscape.
- The applicant was requested to demonstrate compliance with Regulation 18(1) of the European Communities Regulations 2017 (application of fertilisers to land in a uniform manner) and Regulation 18(2)(e) where fertilisers shall not be applied to land where the ground slopes and there are risks of water pollution.
- Details on how it would be proposed to prevent pollution of surface water drains during the construction of the proposed roadways and to demonstrate that there is consistent minimum thickness of 1m of soil and subsoil in steeply sloping lands.
- A composite site layout plan was requested to identify;
  - (a) All field drain and exclusion zones,
  - (b) All existing and proposed wells and related exclusion zones,
  - (c) Land which are liable to flooding,
  - (d) All drains proposed to be piped.
- The applicant was requested to confirm the extent of the existing hedgerow to be removed to the facilitate the site entrance to the east and that the existing trees there would remain unaffected by the proposal.

The second set of responses for clarification for further information satisfied all of the above items.

**ED00995**- A request from Padraig Hanley to establish whether under Section 5 of the Act works comprising of the raising and re-contouring of lands was/ was not development and was/ was not exempted development. It was recommended that the works described in the application did constitute development and were exempted development.

#### **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 4(1)

The following shall be exempted development for the purposes of the Act-

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

#### 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.

#### 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.

#### **Article 6(3) Exempted Development – Rural**

Description of Development -Class 9

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

#### **Conditions and Limitations**

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

#### **Assessment**

The applicant seeks to erect a storage shed for machinery, straw and hay near 2 other agricultural structures that are currently under construction.

Section 3 of the Planning and Development Act 2000 defines 'development' as '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 2 of the Planning and Development Act 2000 defines 'works' as '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.' It is considered that the erection of the storage shed would involve the carrying out of 'works' and therefore constitutes development.

#### **Erection of Barn for Storage**

Having regard to the provisions of Article 6 Part 3 of the Planning and Development Regulations 2001 (as amended) Rural, Class 9;

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

the erection of the storage barn has been assessed against each of the provisions of Class 9, column 2 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended);

#### **Conditions and Limitations**

- 1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.
  - It is specified in the documents submitted to the Planning Authority on the 21/05/2024 that the structure is to be used only for the storage of machinery, straw and hay.
- 2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.
  - The gross floor area of the proposed storage barn is 284sqm. The gross floor areas of the other structures in the farmyard complex (the cubicle shed and silage slab) were not provided on the proposed site layout submitted. Having regard to the documents submitted on the 28/08/2019 under planning reference 19/971 the cubicle shed is approx. 1,400sqm and the silage slab area is 988sqm. The estimate aggregate floor area of all structures in the farmyard complex is well in excess of the 900sqm permitted.
- 3. No such structure shall be situated within 10 metres of any public road.
  - There is only an internal farm road within 10 meters of the proposed shed and on the Site Layout Map it is noted that the structure is 205m from the nearest public road.
- 4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
  - The height of the proposed storage barn will be 9.530m at the highest point. It has been submitted that the structure will be 205m away from a public road, this is considered acceptable.
- 5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
  - Having regard to the Site Location Map submitted to the Planning Authority on the 21/05/2024, the proposed location would appear to be over 100m away from the nearest dwelling/building to the East.
- 6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.
  - Although it has not been specified in the documentation, the elevations of the proposed structure clearly show the metal roof of the structure shall be painted green.
     This would be considered acceptable.

The gross floor area of the proposed structure combined with the 2 structures under construction within the same complex shall be in excess of 2,000 square meters. Subject to condition 2 of Class 9 of Article 6 (3) of the Planning and Development Regulations 2001 (as

amended), where structures within the same farmyard complex shall not exceed 900 square metres gross floor space in aggregate, this proposal is considered not to be exempted development.

#### Conclusion

Having regard to:

- Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended);
- Article 6 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 **constitute development** as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and **IS NOT exempted development** as defined by the Planning and Development Act 2000 (as amended) and 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** NOT exempted development.

Signed: "

Planner: Cian Buckley Date: 12/06/2024

Kehinde Oluwatosin Senior Executive Planner

13/06/2024

Aoife Brangan A/SP

13/06/24

#### **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 erection of a storage shed for machinery, straw and hay, is or is not development or is or is not exempted development.

**AS INDICATED** on the plans and particulars received by the Planning Authority on 21/05/2024

**AND WHEREAS** Padraig Hanly 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);
- (b) Articles 6 of the 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, 4, and 5 of the Planning and Development Act 2000 (as amended);
- (b) 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 erection of a storage shed for machinery, straw and hay,

<u>IS development</u> and <u>IS NOT EXEMPTED</u> development pursuant to Section 2, 3, 4 and 5 of the Planning and Development Act as amended and Article 6, Article 9 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.

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



# APPROPRIATE ASSESSMENT SCREENING REPORT AND DETERMINATION

(A) Project Details		
Planning File Ref	ED1128	
Applicant name	Aidan Kelly	
<b>Development Location</b>	Ardrass Upper, Straffan, Co. Kildare	
Site size	62.33ha	
Application accompanied	No	
by an EIS (Yes/NO)		
Distance from Natura 2000	The Rye Water Vally/ Carton SAC is 6.1km from the subject	
site in km	site to the Northeast.	
Description of the project/proposed development –		
The erection of an agricultural storage shed for machinery, straw and hay.		

(B) Identification of Natura 2000 sites which may be impacted by the proposed					
dev	elopment				
			Υ	es/No	
			If ansv	wer is	yes,
			identify	list nar	ne of
			Natura	2000	site
			likely	to	be
			impacte	d.	
1	Impacts on sites designated	Is the development within a			
	for freshwater habitats or	Special Area of			
	species.	Conservation whose			
		qualifying interests include		No	
	Sites to consider: River Barrow	freshwater habitats and/or		No	
	and Nore, Rye Water/Carton	species, or in the			
	Valley, Pollardstown Fen,	catchment (upstream or			
	Ballynafagh lake	downstream) of same?			

2	Impacts on sites designated	Is the development within a		
	for wetland habitats - bogs,	Special Area of		
	fens, marshes and heath.	Conservation whose		
	Sites to consider: River Barrow	qualifying interests include	No	
	and Nore, Rye Water/Carton	wetland habitats (bog,	NO	
	Valley, Pollardstown Fen,	marsh, fen or heath), or		
	Mouds Bog, Ballynafagh Bog,	within 1 km of same?		
	Red Bog, Ballynafagh Lake			
3	Impacts on designated	Is the development within a		
1				
	terrestrial habitats.	Special Area of		
	terrestrial habitats. <u>Sites to consider</u> : River Barrow	Special Area of Conservation whose		
		· ·	No	
	Sites to consider: River Barrow	Conservation whose	No	
	Sites to consider: River Barrow and Nore, Rye Water/Carton	Conservation whose qualifying interests include	No	
	Sites to consider: River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen,	Conservation whose qualifying interests include woodlands, dunes or	No	
4	Sites to consider: River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen,	Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m	No	
4	Sites to consider: River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh Lake	Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?	No No	

### **Conclusion:**

If the answer to all of the above is  $\bf No$ , 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**.

(G) S	(G) SCREENING CONCLUSION STATEMENT				
Selec	Selected relevant category for project assessed by ticking box.				
1	AA is not req	uired because the project is directly connected			
	with/necessary to the conservation management of the site				
2	No potential	significant affects/AA is not required	Х		
3	Significant effects are certain, likely or uncertain.				
	Seek a Natura Impact Statement				
	Reject proposal. (Reject if potentially damaging/inappropriate)				
Justify why it falls into relevant category above (based on information in above					
tables	tables) Having regard to the scale and nature of the proposed works, it is not				
considered that there will be any impact on the nearest SAC.					
Nam	Name: Cian Buckley				
Posit	osition: Graduate Planner				
Date	:	12/06/2024			

# COMHAIRLE CONTAE CHILL DARA





## **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:	DO53174	Section:	Planning
SUBJECT:	5 of Planning and Dev	aration of Exempted De elopment Act 2000 (as ss Upper, Straffan, Co.	,
SUBMITTED:		recommendation from cil's Technical Officers.	the A/Senior Planner and
ORDER:	the powers conferred Development Act 2000	llowing Kildare County on it by Section 5(2)(a) (as amended) hereby t is development and is	decides that the
MADE THIS	DAY	SIGNED: Ma	n Dung
OF June	YEAR 2024	DIRECTOR OF SE	RVICES

# **Kildare County Council**

# Declaration of Exempt Development under Section 5, of the Planning and Development Act 2000

Incomplete	applicatio	n forms will
be deemed	invalid ar	nd returned

All responses must be in <u>block</u> <u>letters</u>

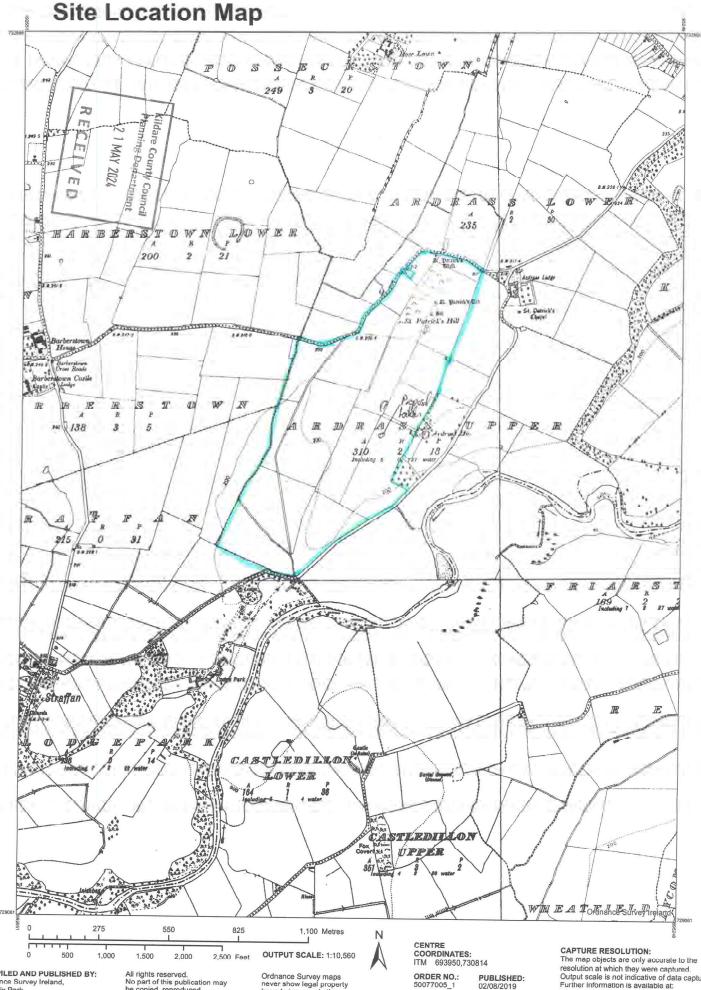
Section 1	Details of Applicants
	A Surrana Hada Faranasa Padaia
2.	licant(s) A. Surname Hanly Forenames Padraig Phone No Fax No
Section 2	Person/Agent acting on behalf of applicant (if applicable)
Phone No 085	Person/Agent: Surname Kelly Forenames Aidan
Section 3	Company Details (if applicable)
	panyN/A

Sec	tion 4	Details of Site	
<b>1.</b> Pla	anning Hist	ory of Site planning reference 19971	•••••••
<b>2.</b> Lo	cation of P	oposed Development Ardrass Upper, Straffan, Co Kildare	
<b>3.</b> Or	dnance Sur	vey Sheet No 6 INCH; 9900-13, DN020+020A, KE010, KE011, K	E014, KE015
,	2500=3323	-A, 3323-B, 3323-C, 3323-D	
4. Ple	ease state th	e Applicants interest in the site THE OWNER	
6. Un Devel 7. Ple	der what Solopment Rocase give a constant	e extent of the proposed development Class 9 exempt STORAG ection of the Planning and Development 2000 and/or what provision egulations 2001 is exemption sought (specific details required) Class 9 exemption of the Proposed Development (Use separate page if machinery and straw and hay	of the Planning and empt
Sect	tion 5	The following must be submitted for a valid applicat	ion
			(Please Tick)
1.	Site Loca	ion Map (1:2500 Rural Areas) (1:1000 Urban Areas)	
2.	2. A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001		
3.	3. Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001		
4.	All drawing developm	ngs to differentiate between the original building, all extensions and ent	proposed
5.	Fee of 80	Euro Pleese Cerl	Kildare County Council Planning Department
-			2 1 MAY 2024
Sect	ion 6	Declaration	RECEIVE

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

Signature: Allen

Date: 18-05-2024



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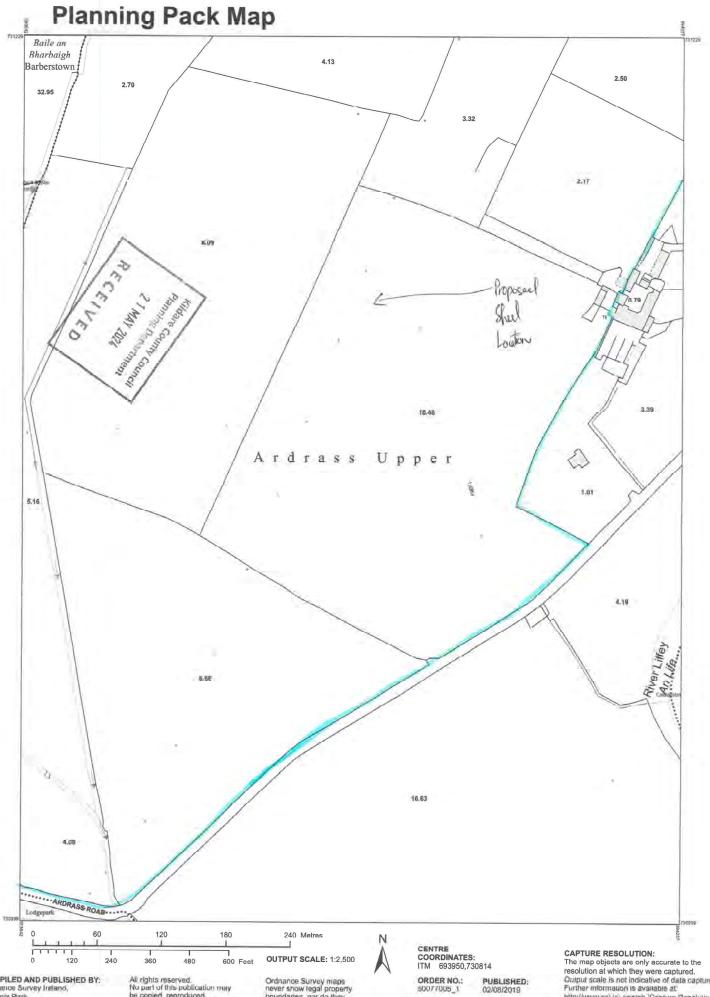
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KE014 KE015

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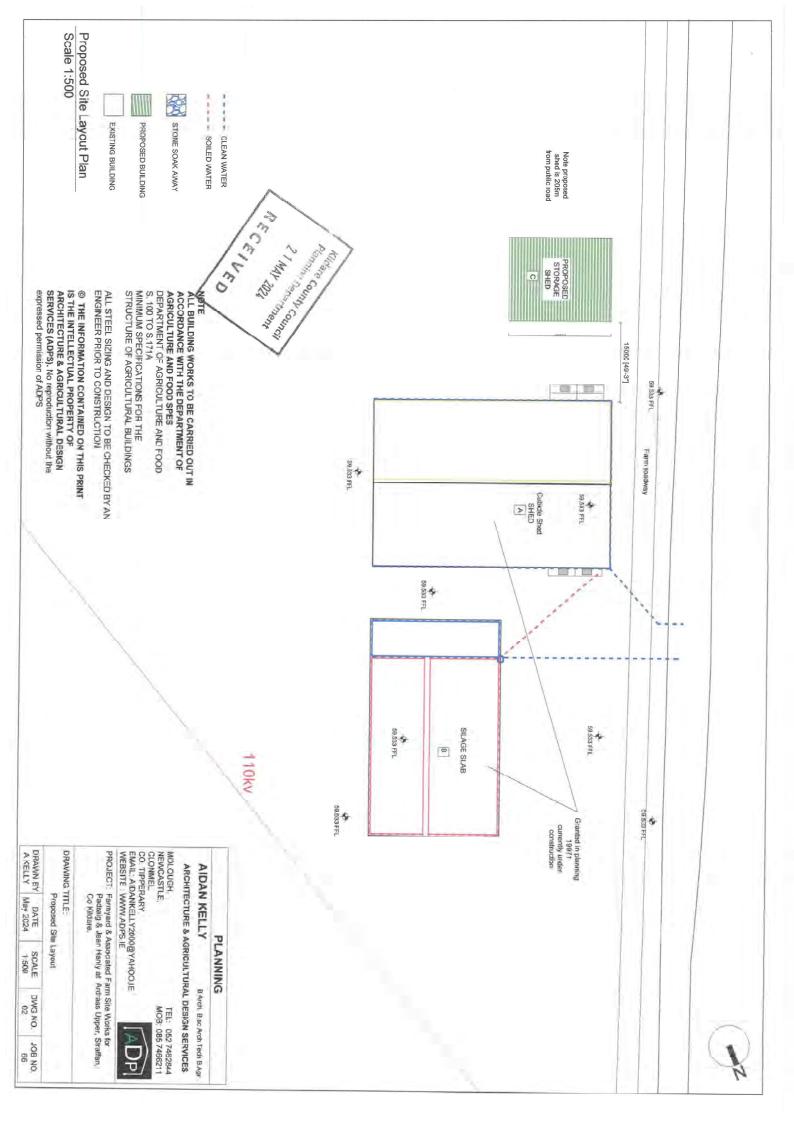
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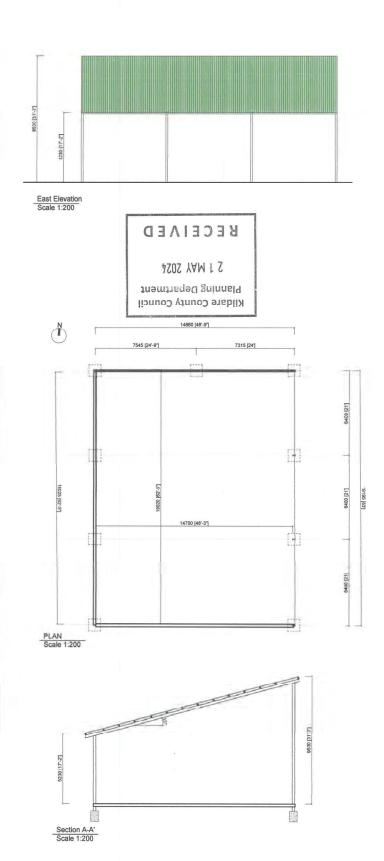
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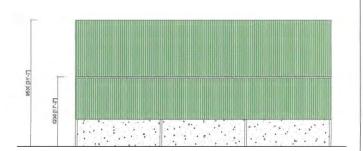
http://www.osi.io. search 'Large Scale Lagund'



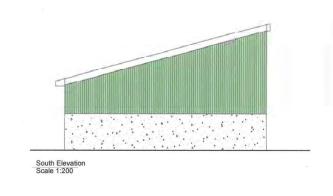


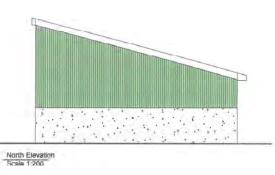


Note proposed shed is 205m from public road this allows height to exceed 8m



West Elevation Scale 1:200





**STORAGE Area** 

: 279m<sup>2</sup>

#### **PLANNING**

#### **AIDAN KELLY**

B.Arch. B.sc Arch Tech

ARCHITECTURE & AGRICULTURAL DESIGN SERVICES

MOLOUGH, NEWCASTLE, CLONMEL. CO. TIPPERARY.

EMAIL: AIDANKELLY2000@YAHOO.IE WEBSITE: WWW.ADPS.IE

TEL: 052 7462844

MOB: 085 7466211

PROJECT: Farmyard & Associated Farm Site Works for Padraig & Jean Hanly at Ardrass Upper, Straffan, Co Kildare.

DRAWING TITLE:

Plan and section

DRAWN BY DATE SCALE DWG NO. JOB NO. A KELLY APR 2024 1:200 66

NOTE
ALL BUILDING WORKS TO BE CARRIED OUT IN ACCORDANCE WITH THE
DEPARTMENT OF AGRICULTURE AND FOOD SPES
DEPARTMENT OF AGRICULTURE AND FOOD
S. 10 TO S.171A
MINIMUM SPECIFICATIONS FOR THE
STRUCTURE OF AGRICULTURAL BUILDINGS

ALL STEEL SIZING AND DESIGN TO BE CHECKED BY AN ENGINEER PRIOR TO CONSTRUCTION

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FINANCE CASH OFFICE Kildare County Council Áras Chill Dara Devoy Park Naas Co. Kildare 21/05/2024 11:47:15

Receipt No. : FIN1/0/499898 \*\*\*\*\*\* REPRINT \*\*\*\*\*\*

Padraig Hanly

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

Total :

80.00 EUR

Tendered:

Credit Card

80.00

VD \*\*5862 0000

Change :

0.00

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