



Comhairle Contae Chill Dara

Kildare County Council

Date: 27th February 2025
Our Ref: ED/1190.

Ciarán Mahon,
Mooreabbey Demesne,
Monasterevin,
Co. Kildare.

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

Dear Sir/Madam,

I refer to your correspondence received on 4th February 2025 in connection with the above. Please find enclosed Receipt no. FIN1/0/508384 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.



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/1190.

WHEREAS a question has arisen as to whether the levelling of existing clay piles from river drainage schemes and the installation of a new field drain at Mooreabbey Demesne, Monasterevin, Co. Kildare, is exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 4th February 2025

AND WHEREAS Ciarán Mahon 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
- (c) Documentation received with the application

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

- (a) Sections 2, 3, and 4 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 levelling of existing clay piles from river drainage schemes and the installation of a new field drain ***IS development and IS NOT EXEMPTED development pursuant to Section 2 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.

27th February 2025


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/1190

| | |
|---------------------------------|--|
| Name Of Applicant(s): | Ciarain Mahon |
| Address Of Development: | Mooreabbey Demesne, Monasterevin, Co. Kildare |
| Development Description: | Levelling of existing clay piles from river drainage schemes and the installation of a new field drain |
| Due date | 04 th March 2025 |

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; *levelling of existing clay piles from river drainage schemes and the installation of a new field drain* is or is not exempted development.

Site Location

Mooreabbey Demesne, Monasterevin, Co. Kildare

Description of Proposed Development

The levelling of existing clay piles from river drainage schemes and the installation of a new field drain.



Fig 1: Site Location and context. Site identified with a black star.



Fig 2: Aerial view of subject site (GIS) Site outlined in yellow.

Planning History

072213 construction of a 4 box single story stable block with tack room and food store, effluent holding tank, dungstead and all associated site works DEEMED WITHDRAWN

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

It is considered, having regard to nature, size and location, the proposed development within the River Barrow and River Nore SAC, a NATURA 2000 site and area of special interest, there is uncertainty regarding the significant effects on the environment. Therefore, EIA is 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 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—

(a) if the carrying out of such development would—.....(15 items)

Assessment

It is considered that the proposed works **constitutes development** as defined in Section 3(1) of the Planning and Development Act 2000 (as amended).

Under Article 9 (1)(a)(vi) of the Planning and Development Regulations 2001 (as amended) development to which Article 6 relates shall not be exempted development for the purposes of the Act 'if the carrying out of such development would interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a

development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,'

Objective BI 011 of the KCDP2023-2029 states 'Support the establishment of conservation measures and the preparation and implementation of management plans for the conservation of Natura 2000 sites by NPWS, as required by Article 6(1) of the Habitats Directive.'

The proposed development includes the levelling of existing clay piles from river drainage schemes and the installation of a new field drain. The development site is located within the River Barrow and River Nore SAC, a NATURA 2000 site, and area of special interest, the preservation of which is an objective of the Kildare County Development Plan 2023-2029. The proposed development is **not exempted** under Article 9 (1)(a)(vi) of the Planning and Development Regulations 2001 (as amended).

Conclusion

Having regard to:

- Sections 2, 3 and 4 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 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: James Kelly

Date: 27/02/2025



Martin Ryan

Senior Executive Planner

27/02/2025

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 *levelling of existing clay piles from river drainage schemes and the installation of a new field drain*

AS INDICATED on the plans and particulars received by the Planning Authority on 04/02/2025

AND WHEREAS Ciarain Mahon 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, and 4 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 levelling of existing clay piles from river drainage schemes and the installation of a new field drain

IS development and IS NOT EXEMPTED development pursuant to Section 2 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.



Signed: _____

27/02/2025

Appendix 1: Appropriate Assessment Screening

| | |
|---|--|
|  | APPROPRIATE ASSESSMENT SCREENING REPORT AND DETERMINATION |
|---|--|

| (A) Project Details | |
|---|---|
| Planning File Ref | ED1109 |
| Applicant name | Ciarain Mahon |
| Development Location | Mooreabbey Demesne, Monasterevin, Co. Kildare |
| Site size | Approx. 5ha |
| Application accompanied by an EIS (Yes/NO) | No |
| Distance from Natura 2000 site in km | WITHIN SAC |
| Description of the project/proposed development – <i>the levelling of existing clay piles from river drainage schemes and the installation of a new field drain</i> | |

| (B) Identification of Natura 2000 sites which may be impacted by the proposed development | | | |
|--|--|--|---|
| | | | Yes/No If answer is yes, identify list name of Natura 2000 site likely to be impacted. |
| 1 | Impacts on sites designated for freshwater habitats or species. <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> | YES |
| 2 | Impacts on sites designated for wetland habitats - bogs, fens, marshes and heath. | <i>Is the development within a Special Area of Conservation whose qualifying interests</i> | YES |

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

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**.

| (G) SCREENING CONCLUSION STATEMENT | | |
|---|--|----------|
| <i>Selected relevant category for project assessed by ticking box.</i> | | |
| 1 | AA is not required because the project is directly connected with/necessary to the conservation management of the site | |
| 2 | No potential significant affects/AA is not required | |
| 3 | Significant effects are certain, likely or uncertain. Seek a Natura Impact Statement Reject proposal. (Reject if potentially damaging/inappropriate) | X |
| Justify why it falls into relevant category above (based on information in above tables) | | |
| The proposed development constitutes the levelling of clay and the installation of a new field drain within an SAC and both of which could impact water quality and levels in the River Barrow and the wider SAC. | | |
| Name: | James Kelly | |
| Position: | Graduate Planner | |
| Date: | 27/02/2025 | |

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: DO57315 **Section:** Planning

SUBJECT: ED1190 Ciarán Mahon, Mooreabbey Demesne, Monasterevin, Co. Kildare. Exempt Development Application for the levelling of existing clay piles from river drainage schemes and the installation of a new field drain at Mooreabbey Demesne, Monasterevin, Co. Kildare.

SUBMITTED: ED1190 with recommendation from the Senior Executive 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 not exempted development.

MADE THIS 27th DAY
OF February YEAR 2025

SIGNED: Alan Dunney
DIRECTOR OF SERVICES

Kildare County Council

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

Incomplete application forms will
be deemed invalid and returned



All responses must be in block
letters

Section 1 Details of Applicants

1. Name of Applicant(s) A. Surname... Mahon..... Forenames... Ciarán
Phone No. [REDACTED] Fax No.....
2. AddressMooreabbey Demesne, Monasterevin , Co.
Kildare.....

Section 2 Person/Agent acting on behalf of applicant (if applicable)

1. Name of Person/Agent: Surname...Morrin..... Forenames.....Austin.....
Phone No...0872232809..... Fax No.....
2. Address.....Oldtowndonore, Naas, Co. Kildare.....

Section 3 Company Details (if applicable) N/A

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

Kildare County Council
Planning Department

4 FEB 2025

RECEIVED

Section 4 Details of Site

1. Planning History of Site.....072213.....
2. Location of Proposed Development.....Mooreabbey Demesne
Monasterevin, Co. Kildare.....
3. Ordnance Survey Sheet No... 3773- B.....
4. Please state the Applicants interest in the siteOwner.....

5. Please state the extent of the proposed development.....Levelling of existing clay piles from river drainage schemes and the installation of a new field drain.....

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

The works to be carried out would be an exempted development as a Class 3 exemption in Section 2, Schedule 2, Part 3 (Exempted development- Rural) of the planning and development regulations 2001-2024.

The works also fall under the category described in Section 1, Part 2, Article 8(b), and 8(c) of the planning and development regulations 2001-2024 as amended.

Further details provided in the cover letter provided.

.....

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

..... The proposed works involve the levelling of piles of clay present on the site and the installation of a land drain (Further details provided in cover letter)

.....
.....

| | |
|------------------|--|
| 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) | |
| 2. | A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended | |
| 3. | Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended | |
| 4. | All drawings to differentiate between the original building, all extensions and proposed development | |
| 5. | Fee of 80 Euro | |

Kildare County Council
Planning Department

- 4 FEB 2025

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

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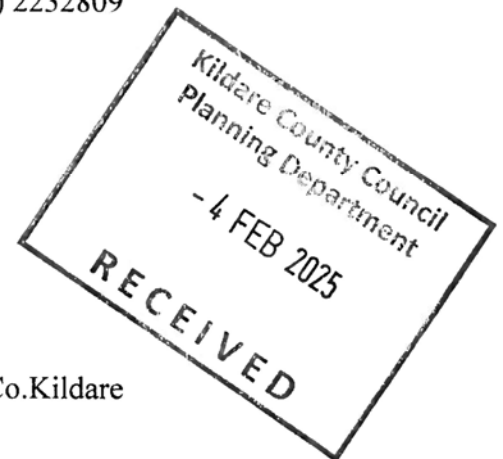
I, Austin Morrin _____ certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Signature: Austin Morrin

Date: 4/2/2024 2025

Austin and Maurice Morrin
Planning and Design,
Oldtown Donore,
Naas,
Co. Kildare.
20th January 2025
(087) 2232809

Planning Department,
Aras Cill Dara,
Naas,
Co. Kildare



Ref: Exempted Development at Mooreabbey, Monasterevin, Co.Kildare

Applicant: *Ciaráin Mahon*

Re: *Certificate of exemption for Ciaráin Mahon at Mooreabbey, Monasterevin, Co. Kildare.*

To whom it may Concern,

Please find attached drawings and details for a certificate of exemption.

The proposed works involve the levelling of piles of clay present on the site and the installation of a land drain. This is to be carried out in order to allow the filled be reseeded with grass.

The piles of clay present are from previous dredging of the river in the past. Pile A shown in brown on the site location map has an estimated volume of 599m³ and there are 28 almost identical piles shown in brown and labelled 1-28, with an estimated volume of 8.33m³ each. This totals 832.24 m³ to be graded over the are shade in yellow on the site layout which comprises 9957.5m². This will result in a negligible

rise in field level of 0.08 metres (8 centimetres). The works do not involve any importation of soil.

A field drain is to be installed as shown in blue on the site layout to drain surface water from the field.

The works to be carried out would be an exempted development as a Class 3 exemption in Section 2, Schedule 2, Part 3 (Exempted development- Rural) of the planning and development regulations 2001-2024 as the works relate to the levelling of clay which was collected from the widening or deepening of watercourses and also the installation of a land drain. A Class 3 exemption is detailed below.

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.”*

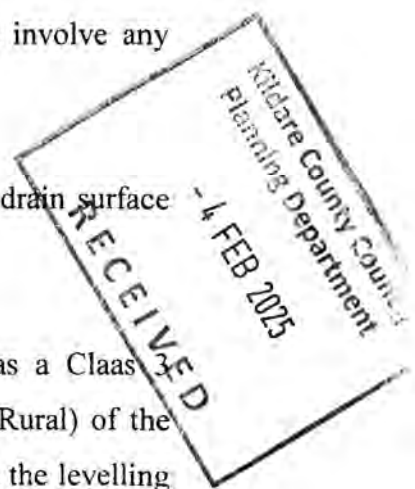
The works also fall under the category described in Section 1, Part 2, Article 8(b), and 8(c) of the planning and development regulations 2001-2024 as amended.

The clay on site is a result of works carried out under a previous drainage scheme under the Arterial Drainage Act 1945 (No. 3 of 1945) or the Arterial Drainage (Amendment) Act 1995.

Article 8a and 8b are detailed below.

Article 8B: *Works consisting of field drainage for agriculture, other than drainage and/or reclamation of wetlands, shall be exempted development. 8C. Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.*

Article 8C: *Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.*



As the works has the option of falling under both exempted development categories shown above I hope you will find the works detailed to be an exempted development. If any further questions arise please do not hesitate to contact the applicant or myself.

Yours Sincerely

A handwritten signature in dark ink, appearing to read 'Austin Morrin', written over a horizontal line.

Austin Morrin B.Agr.Sc.



Site Location Map



Description:
=====

Digital Landscape Model (DLM)
=====

Publisher / Source:
=====

Taitte Éireann
=====

Data Source / Reference:
=====

PRIME2
=====

File Format:
=====

Autodesk AutoCAD
(DWG_R2013)
File Name:
=====

v_50442639_1.dwg
=====

Clip Extent /
Area of Interest (AOI):
=====

LLX,LY: 661738,707070
LRX,LY: 662321,707070
ULX,LY: 661738,707500
URX,LY: 662321,707500
=====

Projection / Spatial
Reference:
=====

Projection: IRENET95_Irish_
Transverse_Mercator
=====

Centre Point Coordinates:
=====

X,Y: 662029,707285
=====

Reference Index:
=====

Map Series / Map Sheets
12,500 | 3773-B
12,500 | 3773-A
=====

Data Extraction Date:
=====

Date: 13-Jan-2025
=====

Source Data Release:
=====

DCHLS Release V1.183.119
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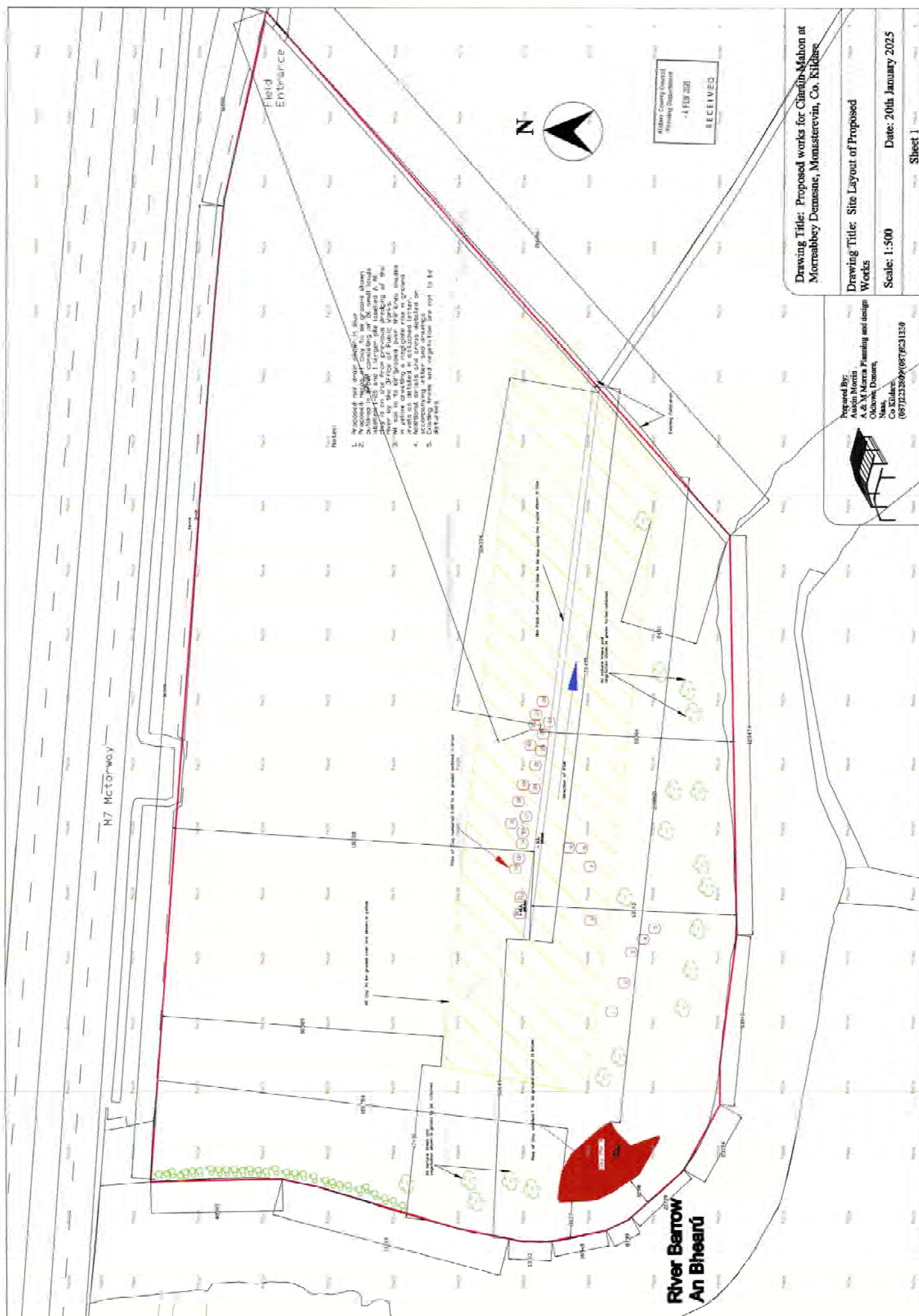
Product Version:
=====

Version: 1.4
=====

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Ireland.
D08F6E4
www.taitte.ie
=====

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number 50442639
Proposed Developments
for Ciaran Mahon
Prepared by:
A&M Morrin Planning
and Design,
Oldown Donore, Naas,
Co. Kildare
087 2232809





4th February 2025

Planning Department,
Aras Cill Dara
Naas,
Co. Kildare.

RE: Declaration of Exempt Development under section 5 for Ciarain Mahon at Mooreabbey
Demesne, Monasterevin, Co. Kildare

To whom it may concern

I am submitting an application for a Declaration of Exempt Development under section 5 on behalf
of Ciarain Mahon, Mooreabbey Demesne, Monasterevin, Co. Kildare.
Please find the following documents attached.

| | |
|--|----------|
| Application Form: | 2 copies |
| Cover Letter: | 2 Copies |
| Site Location map 1:2500 | 2 copies |
| Site Layout 1:100 | 2 copies |
| Section and plans of works to be carried out | 2 copies |
| Cheque €80 | |

Should you require anything further please let me know. My contact number is 0872232809.

Yours sincerely,
Austin Morrin

Kildare County Council
Planning Department

- 4 FEB 2025

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Ground area of pile of clay:
436.5m²
Volume of pile of clay: circa 599. m3



Plan of typical clay pile 1-28



Section B/E of typical clay pile 1-28

13. Drawings of model pins 1-28 shown as illustrations of pins 10 from 100 views to a scale of 1:1.

Ground area of pile of clay 1-28:
9.52 m²
Volume of pile of clay: circa 8.33 m³



Kildare County Council
Planning Department

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Note: All buildings to be constructed to current relevant Department of Agriculture Specifications.
All Dimensions in millimetres.
All Dimensions to be checked on site



Prepared By:
Austin Morrin
A & M Morrin Planning and design
Downtown Donore,
Naas,
Co Kildare.
(087)2232869/(087)9231330

Drawing Title: Proposed works for Ciarán Mahon at Mooreabbey Demesne, Monasterevin, Co. Kildare

Drawing Title: Plan and Sections of clay piles and land drain section

Scale: 1:100



FINANCE CASH OFFICE
Kildare County Council
Aras Chill Dara
Devoy Park
Naas
Co. Kildare
04/02/2025 15:57:42

Receipt No. : FIN1/0/508384

Ciaran Mahon

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

Total : 80.00 EUR

Tendered :
Cheque 80.00

Change : 0.00

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