

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

Michael Gleeson,


Reference Number: DED 539

Application Received: 10th February, 2023

Location: Cloongowna, Bealnamulla, Athlone, Co. Roscommon.

WHEREAS a question has arisen as to whether the upgrading of the existing agricultural boundary fence at Cloongowna, Bealnamulla, Athlone, Co. Roscommon, is or is not development or is or is not exempted development.

AND WHEREAS Roscommon County Council, in considering this application, had regard particularly to:

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Acts 2000 (as amended);
- (b) Article 9 of the Planning and Development Regulations 2001 as amended.
- (c) Class 4 of Schedule 2, Article 6, Part 3: Exempted Development – Rural of the Planning and Development Regulations 2001 (as amended).
- (d) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 (as amended);

AND WHEREAS Roscommon County Council has concluded that:

- (a) The proposed works constitute development as defined in the Planning and Development Act 2000 (as amended) and associated Regulations;
- (b) The proposed development is exempted development as defined in the Planning and Development Act 2000 (as amended) and associated Regulations.

NOW THEREFORE:

By virtue of the powers vested in me by the Local Government Acts 1925 – 2019 and Section 5(2)(a) of the Planning and Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the application described above, it is hereby declared that the said works **consisting of the upgrading of the existing agricultural boundary fence at Cloongowna, Bealnamulla, Athlone, Co. Roscommon is development that is exempted development** as defined within the Planning and Development Act 2000 (as amended) and associated Regulations.

Any person issued with a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended) may, on payment to An Bord Pleanála of the prescribed fee, refer a Declaration for review within 4 weeks of the date of the issuing of the Declaration.

ADVICE NOTE

This Declaration is based on the relevant Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended) at the date of issue. In the event that the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended) change prior to the works being carried out this Declaration may no longer apply.

Signed on behalf of the Council:



Senior Executive Planner,
Planning.

Date: 9th August, 2023

**Planner's Report on application under
Section 5 of the Planning and Development Act 2000-2015**

Reference Number:	DED 539
Re:	Application for a Declaration under Section 5 of the Planning and Development Act 2000 as amended, regarding Exempted Development consisting of the upgrading of existing agricultural boundary fence.
Name and Address of Applicant:	Michael Gleeson
Location of Development:	Cloongowna, Belnamulla, Athlone, Co Roscommon

1.0 Introduction

NOTE: This report has been prepared following receipt of a response to the Planning Authority's request for further information. This report should be read in conjunction with the planning officers' original report of 6th March 2023 which amongst other matters details and considers:

- Development proposal and site assessment
- Relevant statutory provisions
- Planning history on site

Further information requested: 8th March 2023

Further information response received: 25th Jul 2023

3.0 Planning Assessment following receipt of Further Information

Summary of issues on which further information was sought:

Item 1:

A method statement outlining how the recorded monument will be protected during the fencing works and how the works will be carried out.

Item 2:

Details of any right of ways

Assessment of further information received:

Item 1: The applicant clarified that the new fence will be 17 metres away from the recorded monument (R0049-008) and that it will not interfere with it. The old fencing will be removed by hand so there will be no disturbance to the existing ground and the new fencing will be erected by hand with the exception of a post driver to drive posts. RCC is satisfied that the proposed work will not affect any recorded monument in the vicinity of the site.

Item 2:

The applicant has confirmed that there are no public right of ways pertaining to the lands in question.

• **Final assessment:**

I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Acts 2000 (as amended);
- (b) Article 9 of the Planning and Development Regulations 2001 (as amended);
- (c) Class 4, Schedule 2, Part 3, (Article 6:) Exempted Development -Rural of the Planning and Development Regulations 2001 (as amended);
- (d) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 (as amended);

Having regard to the above, I am satisfied that the general question raised in this referral can be determined as follows:

- The works are development
- The proposed works are exempted development.

Recommendation

I have concluded that the 'upgrading of existing agricultural boundary fence' at Cloongowna, Bel^{la}namulla, Athlone, Co. Roscommon **is** development and **IS** exempted development and I recommend that a declaration to that effect should be issued to the applicant.

Signed _____



Date: 8th August 2023

Paula Connaughton
Executive Planner

DED 539



Reference No.: DED 539

Planning,

Roscommon County Council.

A Chara,

I refer to your letter dated 8th March 2023 in relation to my application for a declaration of exemption under Section 5 of the Planning & Development Act 2000.

1. The monument (R0049-008 Enclosure) will not be interfered with in any shape or form as it is 17 Metres from the proposed fence line, see attached map. All personnel working on the fence will be made aware of its existence and importance.
2. The old fence and wire to be removed by hand with no disturbance to existing ground.
3. It is proposed to erect fence by hand with the exception of a tractor and post driver to be used to drive posts, ground levels within the vicinity of the fence will not be interfered with.
4. I Wish to confirm that there are no public rights of way pertaining to the lands in question therefore no map submitted.

Kind Regards


Michael Gleeson

24/07/2023

Select

Select Feature

Deselect All

Measure

Measure

Navigation

Toggle Legend

Return to Land
Details

Measure



Snap



Measurement Results

Length: 17.2 Meters

Area: 0 Hectares





Comhairle Contae
Ros Comáin
Roscommon
County Council



REGISTERED POST

Michael Gleeson,



Date: 8th March 2023
Reference No.: DED 539

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.

Development: The upgrading of existing agricultural boundary fence at Cloongowna, Belnamulla, Athlone, Co. Roscommon.

A Chara,

Further to your application received on the 10th February, 2023 and in order for the Planning Authority to determine whether the upgrading of existing agricultural boundary fence at Cloongowna, Belnamulla, Athlone, Co. Roscommon, is or is not development, and is or is not exempted development, you are requested to submit the following further information:

1. Submit a method statement outlining:
 - a) How the recorded monument will be protected during the fencing works?
 - b) Detailing how the works will be carried out and what the fencing works will involve i.e. will it necessitate the removal of the old fence, ground works and type of the machinery to be used.
2. Submit a map showing any public right of ways if any and clarify if the proposed fencing will restrict access to land which has been open to the public in the last 10 years for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility.

Consideration of your application is being deferred pending compliance with this request for further information. When replying please quote Planning Reference Number **DED 539**.

Note: Replies to this communication must be by way of original documents.

Mise le meas,

**Administrative Officer,
Planning.**

**Planner's Report on application under
Section 5 of the Planning and Development Act 2000-2015**

Reference Number:	DED 539
Re:	Application for a Declaration under Section 5 of the Planning and Development Act 2000 as amended, regarding Exempted Development consisting of the upgrading of existing agricultural boundary fence.
Name and Address of Applicant:	Michael Gleeson
Location of Development:	Cloongowna, Belnamulla, Athlone, Co Roscommon

WHEREAS a question has arisen as to whether the following works, 1) upgrading of existing agricultural boundary fence, Cloongowna, Belnamulla, Athlone, Co. Roscommon is or is not development, and is or is not exempted development:

I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Acts 2000 (as amended);
- (b) Article 9 of the Planning and Development Regulations 2001 (as amended);
- (c) Class 4, Schedule 2, Part 3, Article 6: Exempted Development -Rural of the Planning and Development Regulations 2001 (as amended);
- (d) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 (as amended);
- (e) The planning history of the site.

Site Location & Development Description

The application site is located on a local road c 1.2 km north west of the district centre in Monkland. The area related to this section 5 application is agricultural land and the proposed development consists of the upgrading of stock proof sheep fence 1.2 m high. The applicant identifies two separate fields where the fencing is proposed and there is existing fencing in place which is in a poor condition.

Planning History

No recent relevant planning history

Relevant statutory provisions

Planning and Development Acts 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.

Sub-section 4 of Section 4 of the Act, as amended, provides that notwithstanding exemption set out in specified paragraphs of sub-section 1 and the exemptions in the Regulations, development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Planning and Development Regulations 2001 (as amended)

Schedule 2, Part 3, Article 6 applies: Exempted development -Rural

Description of Development	Conditions and Limitations
<p>CLASS 4</p> <p>The construction, erection or maintenance of any wall or fence, other than a fence of sheet metal, or a wall or fence within or bounding the curtilage of a house.</p>	<p>The height of the wall or fence, other than a fence referred to in paragraph 2, shall not exceed 2 metres.</p> <p>2. The height of any fence for the purposes of deer farming or conservation shall not exceed 3 metres.</p>

Article 9 (1) applies:

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—

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

xi) obstruct any public right of way

Assessment

The question to be determined in this Section 5 referral is whether 'upgrading of existing agricultural boundary fence' is or is not development and is or is not exempted development. Having considered the definition of both "works" and "development" outlined above, I would deem that these proposed developments constitute works and is therefore development.

Schedule 2, Part 3, class 4 relates to 'exempted development – rural'. It provides for certain types of development to be exempted development, as set out in Column 1 provided they meet the requirements set out in the conditions and limitations in Column 2.

Schedule 2, Part 3, Article 6 applies: Exempted development -Rural

Description of Development	Conditions and Limitations
CLASS 4 The construction, erection or maintenance of any wall or fence, other than a fence of sheet metal, or a wall or fence within or bounding the curtilage of a house.	The height of the wall or fence, other than a fence referred to in paragraph 2, shall not exceed 2 metres. 2. The height of any fence for the purposes of deer farming or conservation shall not exceed 3 metres.

The upgrading of an agricultural fence 1.2 m high appears to fall within class 4 outlined above however the site is located within the protection zone of a recorded monument R0049-008 which is protected under section 12 of the National Monuments Act 1994 and hence the proposed development needs to be assessed in terms of Article 9 (1) (vii) and (viiA) of the Planning and Development Regulations 2001 as amended. The proposed fencing at its nearest point is c26m away from the monument. The applicant has submitted a letter from the Department of Housing, Local Government and Heritage which has made a number of recommendations to protect the monument in the event planning permission does not apply. It is considered reasonable to request the applicant to submit a proposal to protect the monument while the proposed works are taking place. RCC acknowledges the fact that the applicant is upgrading existing fencing however it is unclear from the information submitted the works that this will involve. In order to determine whether the proposed development will have an impact on the recorded monument it is considered reasonable to request the applicant for a method statement outlining how the works will be carried out and what works it will involve.

It should also be noted that any development for which Environmental Impact Assessment or Appropriate Assessment is required shall not be exempted development unless specifically exempted in Regulations where there is provision in other legislation for the carrying out of EIA or AA. In addition, the restrictions on exemption, (Art. 9 (1)(a)(viiB)) exclude development, which would otherwise be exempted development under these regulations, where an Appropriate Assessment is required.

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to and distance from any sensitive location, there is no real likelihood of significant effects on European sites arising from the proposed development. The need for an Appropriate Assessment screening can, therefore, be excluded at preliminary examination

With respect to Article 9 (1) (x) and (xi) information is also required in order to establish if the proposed development will obstruct a right of way or if the land in question has been open to the public in the last 10 years for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility

Final assessment: Further information is required in order to determine if the proposed works will impact on the recorded monument and if it will obstruct a right of way.

Recommendation: The following further information is requested:

1. Submit a method statement outlining:
 - a) How the recorded monument will be protected during the fencing works,
 - b) Detailing how the works will be carried out and what the fencing works will involve i.e will it necessitate the removal of the old fence, ground works and type of the machinery to be used.
2. Submit a map showing any public right of ways if any and clarify if the proposed fencing will restrict access to land which has been open to the public in the last 10 years for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility



Signed _____

Date: 6th march 2023

Paula Connaughton
Executive Planner



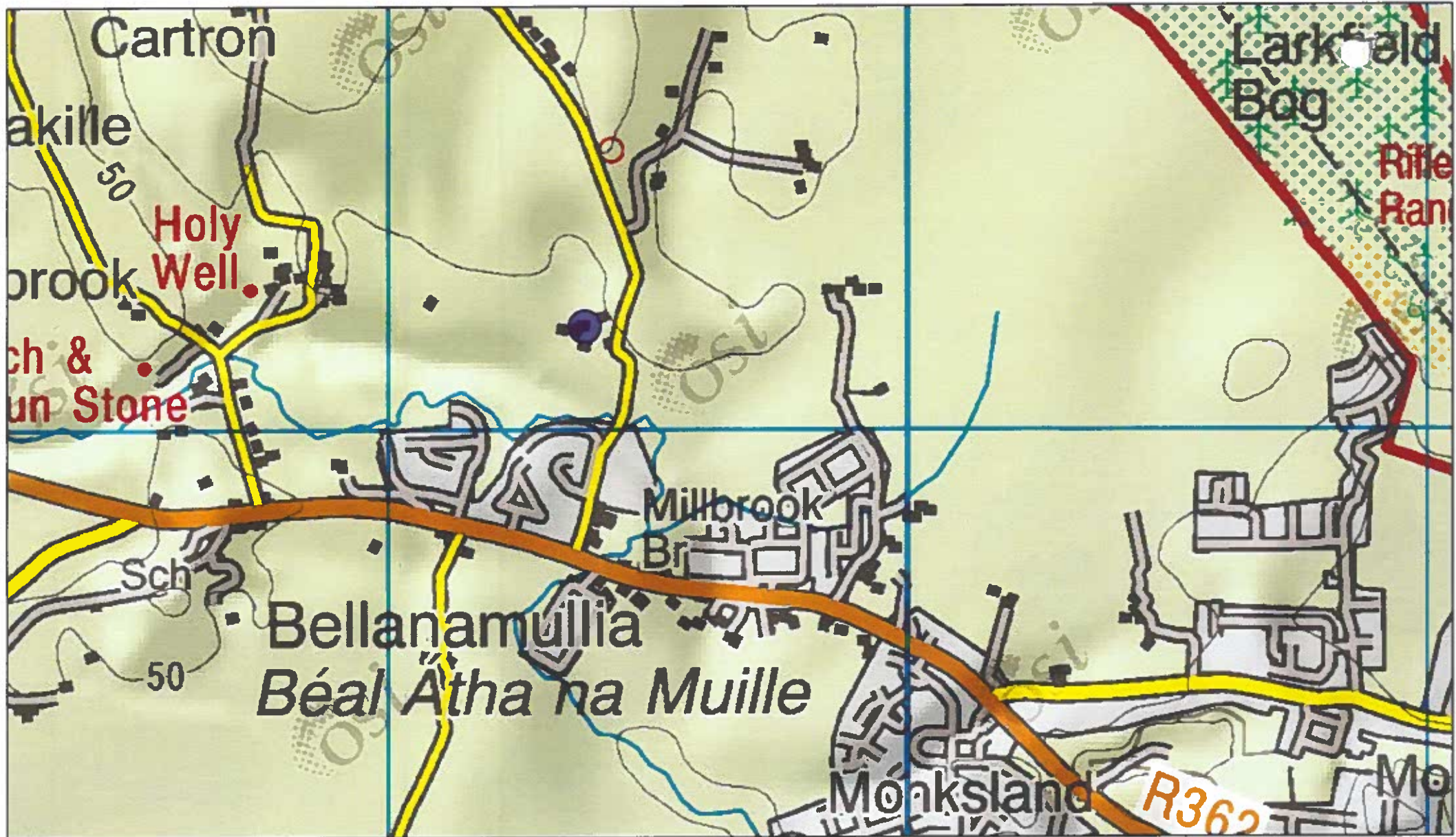






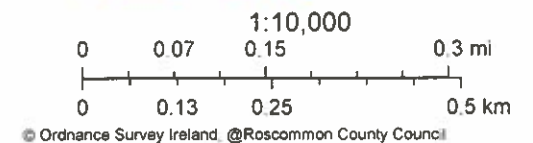


Map Viewer Printout

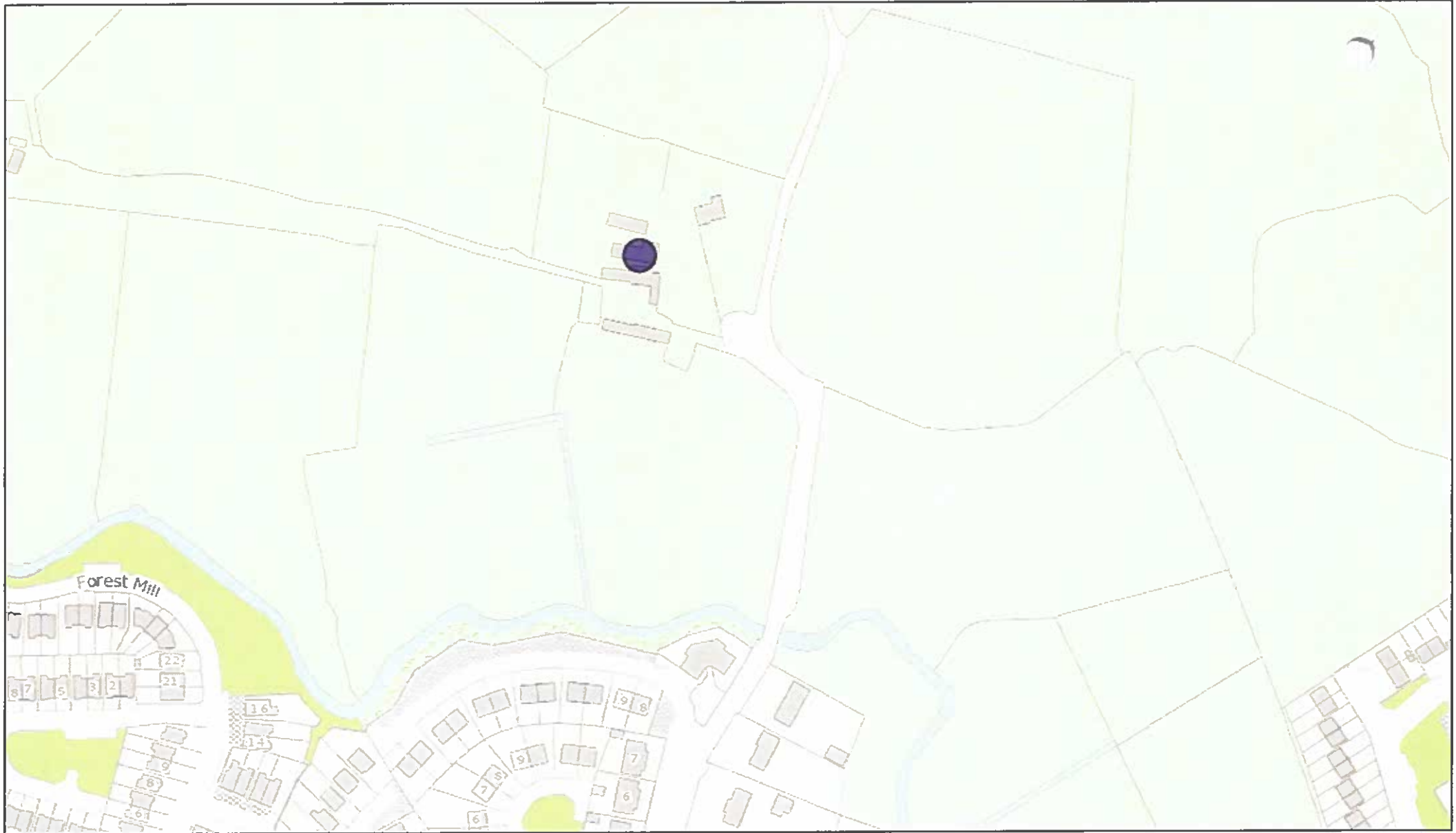


28/02/2023 14:08:09

 County Boundary



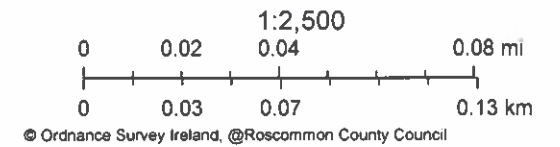
Map Viewer Printout



28/02/2023 14:08:53



County Boundary



Michael Gleeson,


Date: 10th February, 2023.
Planning Reference: DED 539

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.

Development: The upgrading of existing agricultural boundary fence at Cloongowna, Belnamulla, Athlone, Co. Roscommon.

A Chara,

I wish to acknowledge receipt of your application received on the 10th February, 2023, for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development along with the appropriate fee in the sum of €80.00, Receipt No. **L01/0/221213** dated 10/02/2023 is attached herewith.

Note: Please note your Planning Reference No. is **DED 539**.
This should be quoted in all correspondence and telephone queries.

Mise le meas,



Administrative Officer,
Planning.

Roscommon County Council,

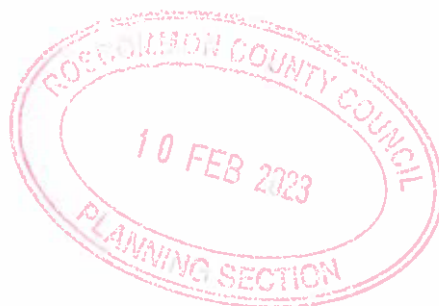
I seek permission to erect a stock proof Sheep fence 1.2m in height on my lands a Cloongowna Bealnamulla, Athlone, Co. Roscommon which are adjacent to National Monument R0049-008 Enclosure.

See attached maps National Monument R0049-008 and fence line marked in blue.

€80 fee attached.

Kind Regards


Michael Gleeson





Comhairle Contae
Ros Comáin
Roscommon
County Council

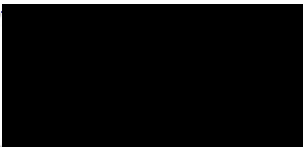
Áras an Chontae,
Roscommon,
Co. Roscommon.

Phone: (090) 6637100

Email: planning@roscommoncoco.ie

Roscommon County Council

Application for a Declaration under Section 5 of the Planning & Development Act 2000, regarding Exempted Development

Name:	MICHAEL GLEESON
Address:	
Name & Address of Agent:	/
Nature of Proposed Works	FENCING. AT GRADING EXISTING Agricultural Boundary Fence (To have my Lands STOKK PROOF)
Location (Townland & O.S No.)	
Floor Area	/
Height above ground level	1.24
Total area of private open space remaining after completion of this development	/
Roofing Material (Slates, Tiles, other) (Specify)	/
Proposed external walling (plaster, stonework, brick or other finish, giving colour)	/
Is proposed works located at front/rear/side of existing house.	NO



Roscommon County Council

Application for a Declaration under Section 5 of the Planning & Development Act 2000,
regarding Exempted Development

Has an application been made previously for this site	no
If yes give ref. number (include full details of existing extension, if any)	/
Existing use of land or structure	FARMING
Proposed use of land or structure	FARMING
Distance of proposed building line from edge of roadway	N/A
Does the proposed development involve the provision of a piped water supply	NO
Does the proposed development involve the provision of sanitary facilities	NO

Signature:

M. P. Gleeson

Date:

6/4/23

Note: This application must be accompanied by:-

- (a) €80 fee
- (b) Site Location map to a scale of 1:2500 clearly identifying the location
- (c) Site Layout plan to the scale of 1:500 indicating exact location of proposed development
- (d) Detailed specification of development proposed

MAP 1: Fence Line

MAP 2: Showing Exclusion Zone of Enclosure R0045-008

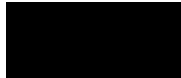
NO3 - details of Enclosure R0045-008

Roscommon County Council
Aras an Chontae
Roscommon
09066 37100

10/02/2023 12:46:13

Receipt No : L01/0/221213

MICHAEL GLEESON



PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED 539	

Total : 80.00 EUR

Tendered :	
Cheque	80.00
500129	

Change : 0.00

Issued By : Bernadine Duignan
From : Central Cash Office



Enclosure - R0049 008

Historic Environment Viewer

[Help](#) [Home \(NMS\)](#) [Home \(NIAH\)](#) [Wreck Viewer](#)



Enter address

R0049-008----

Class: Enclosure

[Scope note](#)

Townland: CLOONGOWNA

Scheduled for inclusion in the next revision of the RMP: Yes

Description: Marked only on the 1915 ed. of the OS 6-inch map, and situated on the crest of a NNE-SSW esker ridge. Circular scrub-covered area (diam 10m NNE-SSW; 9.3m ENE-WSW) defined by an earth and stone bank (Wth 2m at E to 3.5m at W; int. H 0.25m at E to 0.5m at W; ext. H 0.45m at E to 0.9m at E), with inner and outer facing stones visible NNW-ENE (original Wth 1.3-1.7m). There is no visible fosse or entrance. It is bisected by an intermittently visible NE-SW line of limestone boulders.

Compiled by: Michael Moore

Date of upload: 24 August 2010

[Zoom to](#)

60m

599067 742416





An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreacht
Department of Housing,
Local Government and Heritage



To: Mr. Michael Gleeson



Re: Proposed fencing at Cloongowna, Bealnamulla, Athlone, Co. Roscommon in proximity to Recorded Monument RO049-008 Enclosure.

Dear Mr. Gleeson,

Thank you for the notice submitted regarding proposed fencing works in relation to Recorded Monument R0049-008 Enclosure. This monument is protected under section 12 of the National Monuments (Amendment) Act 1994.

The notice pertains to the requirements of section 12 of the National Monuments (Amendment) Act 1994 only and the work outlined in the papers dated 11.11.22. Please note the fact that a monument or place is recorded for the purposes of section 12 of the National Monuments (Amendment) Act 1994 may affect whether development is exempted development for the purposes of the Planning and Development Act 2000. You should therefore seek advice on this from the relevant planning authority for your area.

The National Monuments Services has examined the papers submitted and should planning requirements not apply, we recommend as follows:

It is noted that the proposed works are located close to the Recorded Monument RO049-008. It is important that the monument should be safeguarded from any impacts during the fencing works. There should not be any storage of material within or adjacent to the monument and there should be no vehicles used close to the monument.

Should any archaeological material be uncovered it should be reported immediately to the National Monuments Service and the landowner shall be prepared to be advised on how to resolve the situation before completing the works.

Furthermore, if appropriate, please contact the National Parks and Wildlife Service of this Department and the Forest Service to ascertain any requirements they may have. This response does not confer any authority to carry out the work other than with the owner's permission and in compliance with all other statutory requirements.

Please do not hesitate to contact this office should you have any queries.

Yours sincerely,

Christine Grant

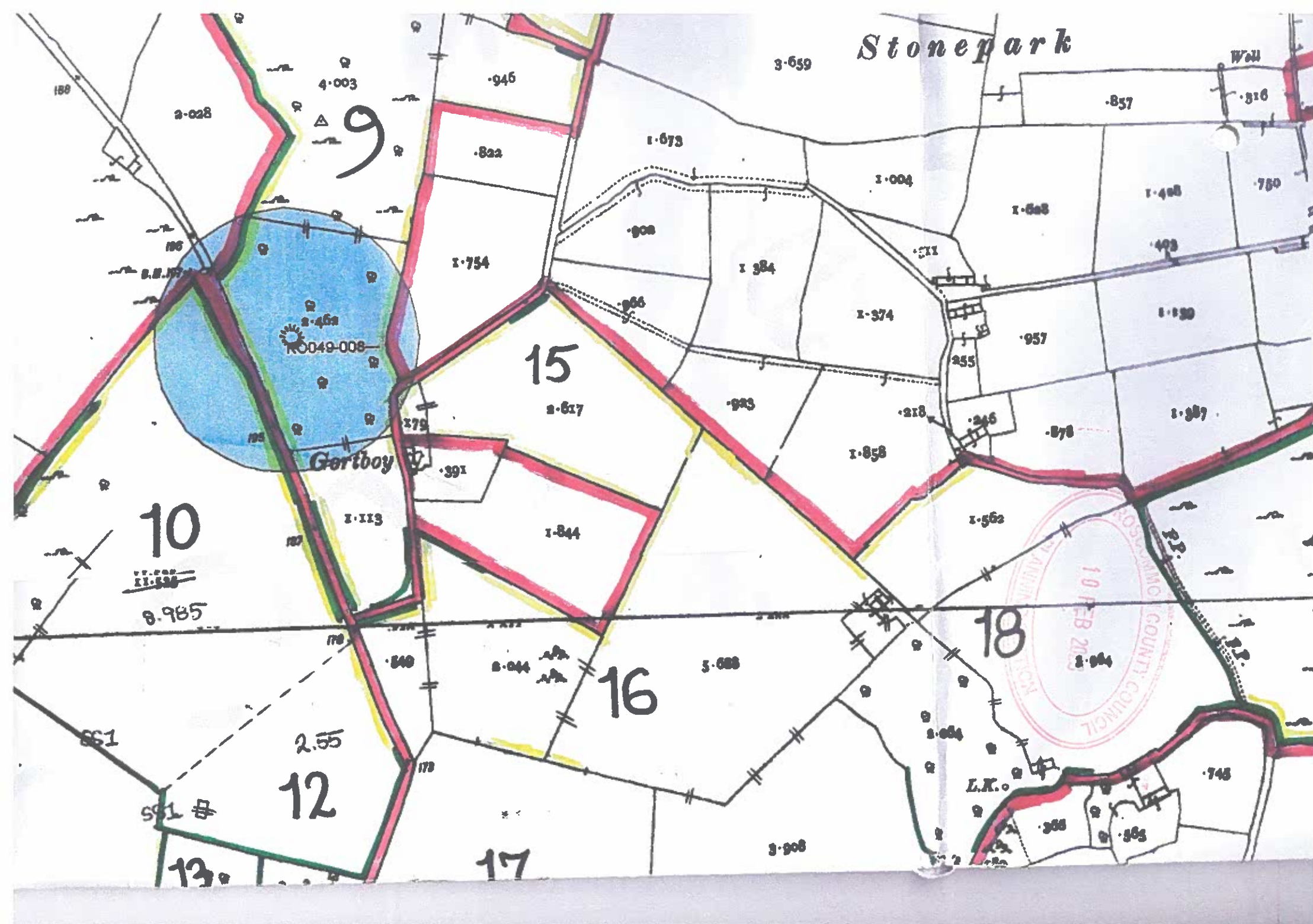
Archaeologist
On behalf of the
National Monuments Service

National Monuments Service, Custom House, Dublin 1
Email nationalmonuments@housing.gov.ie

Map 2



- Select
- Select Feature
- Deselect All
- Measure
- Measure
- Navigation
- Toggle Legend
- Return to Land
- Details





Rialtas na hÉireann
Government of Ireland

MAP 1

FENCING LINE IN BLUE

Historic Environment Viewer

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