

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

REGISTERED POST

Barry Molloy,
c/o Gaynor Architectural & Design Services,
Fallon Avenue,
Roscommon,
Co. Roscommon F42 W327.

Reference Number: DED 626

Application Received: 3rd October, 2023

Applicant: Barry Molloy

Location: Cloonbrackna, Castle Avenue, Roscommon.

Agent: Ignatius Gaynor, Gaynor Architectural & Design Services, Fallon Avenue, Roscommon, Co. Roscommon F42 W327.

WHEREAS a question has arisen as to whether the demolition of a dangerous and derelict structure at Cloonbrackna, Castle Avenue, Roscommon is or is not development and is or is not exempted development.

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

- (a) Sections 2, 3, and 4 of the Planning and Development Acts 2000 (as amended);
- (b) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).
- (c) Class 50, Part 1, Schedule 2 of the 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 of the demolition of a dangerous and derelict structure at Cloonbrackna, Castle Avenue, Roscommon, is not exempted development as defined in the Planning & Development Act 2000 (as amended) and associated Regulations.

NOW THEREFORE:

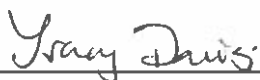
By virtue of the powers vested in me by the Local Government Acts 1925 – 2019 and Section 5(2)(a) of the Planning and Development Act 2000 (as amended) and, having considered the various submissions and reports in connection with the application described above, it is hereby declared that the said works consisting of **the demolition of a dangerous and derelict structure at Cloonbrackna, Castle Avenue, Roscommon, is development that is not 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 Section V application was submitted under the Planning and Development Act 2000 as amended and was assessed in accordance with same which is a separate legislation to the Sanitary Services Act 1964. The structure subject of this application is not on the register held by Roscommon County Council as being a dangerous structure and the applicant is therefore advised to liaise with the Housing Section in RCC with respect to their claim that the structure is dangerous.

Signed on behalf of the Council:



Tracy Davis,
Senior Executive Planner,
Planning.

Date: 27th October, 2023

**Planner's Report on application under Section 5 of the
Planning and Development Act, 2000, as amended**

Reference Number: DED 626

Name and Address of Applicant: Barry Molloy

AGENT: Ignatious Gaynor
Fallon Avenue,
Roscommon.

WHEREAS a question has arisen as to whether 'the demolition of a dangerous and derelict structure' at Cloonbrackna, Castle Avenue, Roscommon is or is not development and is or is not exempted development:

1.0 Site Location and Description

The site is located on a local road in Roscommon Town and is zoned 'Green Belt' in the Roscommon Town Local Area Plan 2014-2020. This road serves as the primary access to busy amenity area of Loughnaneane Park which is proximate to Roscommon Castle. The application site consists of old buildings with a gross floor area of 130 sqm and a roof ridge height of 5.5 m located along the edge of the road.

2.0 Planning History

No recent relevant planning history.

3.0 Relevant Legislation

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

- (a) Sections 2, 3, and 4 of the Planning and Development Acts 2000 (as amended);
- (b) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).
- (c) Class 50, Part 1, Schedule 2 of the 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);

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 (2) of the Planning and Development Act provides that the Minister, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations.

Planning and Development Regulations, 2001 (as amended)

Schedule 2, Part 1

Column 1 Description of Development	Column 2 Conditions and Limitations
Class 50 (a) The demolition of a building, or buildings, within the curtilage of— (i) a house, (ii) an industrial building, (iii) a business premises, or (iv) a farmyard complex.	1. No such building or buildings shall abut on another building in separate ownership. 2. The cumulative floor area of any such building, or buildings, shall not exceed: (a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and (b) in all other cases, 100 square metres. 3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.

4.0 Planning Assessment

The question to be determined in this Section 5 declaration is whether ‘the demolition of a dangerous and derelict structure’ 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 the ‘the demolition of a dangerous and derelict structure’ constitute works and is therefore development.

The applicant has claimed that the site is a dangerous structure under the Sanitary Services Act 1964. This Section V application however was submitted under the Planning and Development Act 2000 as amended which is a separate legislation and will be assessed in accordance with same. Notwithstanding this no structural survey has been submitted with the application to support the applicants claims that the structure is dangerous and it is not on the register held by Roscommon County Council as being a dangerous structure. The applicant will be advised to liaise with the Housing Section in RCC with respect to their claim that the structure subject of this Section V application is dangerous.

To assess whether these works are exempt development consideration was given to Class 50 Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended). It is considered that the site subject of this application house animals and therefore can be called a farm yard complex as listed in Column 1 of Class 50. However, the proposed development fails to satisfy the criteria the conditions and limitations set out in column 2 as it has a gross floor area of 120 sqm and the threshold to comply with Class 50 is 100 sqm. *dec 5*
 Having considered all of the information presented I am satisfied that the proposed demolition not fall within the remit of class 50 outlined above as it does not satisfy the conditions and limitations set out in column 2.

Environmental Considerations :

The development is not of a nature set out in Part 2 Schedule 5 of the Planning and Development Regulations 2001 as amended.

The site is located 4km km away from Lough Ree SAC and SPA. 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 and not of a nature set out in Article 9 (1)(a) of the Planning and Development Regulations 2001 as amended.

Having regard to the above, I am satisfied that the general question raised in this referral can be determined as follows: **'the demolition of a dangerous and derelict structure' at Cloonbrackna, Castle Avenue, Roscommon** is development and is Not exempted development:

5.0 Recommendation

WHEREAS a question has arisen as to **'demolition of a dangerous and derelict structure' at Cloonbrackna, Castle Avenue, Roscommon** is development and is exempted development, and is or is not exempted development:

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

- a) Sections 2, 3, and 4 of the Planning and Development Acts 2000 (as amended);
- b) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).
- c) Class 50, Part 1, Schedule 2 of the 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 I have concluded that

'the demolition of a dangerous and derelict structure' at Cloonbrackna, Castle Avenue, Roscommon is development and is NOT exempted development
and I recommend that a declaration to that effect should be issued to the applicant.



Signed: _____ Date: 27TH Oct 2023

Paula Connaughton
South Roscommon Area Planner.

Advise Note:

This Section V application was submitted under the Planning and Development Act 2000 as amended and was be assessed in accordance with same which is a separate legislation to the Sanitary Services Act 1964. The structure subject of this application is not on the register held by Roscommon County Council as being a dangerous structure and the applicant is therefore advised to liaise with the Housing Section in RCC with respect to their claim that the structure is dangerous.





Barry Molloy,
c/o Gaynor Architects,
Fallon Avenue,
Roscommon,
F42 W327.

Date: 10th October, 2023.
Planning Reference: DED 626

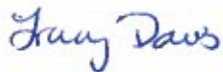
Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000
(as amended), regarding Exempted Development.
Development: The demolition of a dangerous and derelict structure at Cloonbrackna, Castle Avenue,
Roscommon.

A Chara,

I wish to acknowledge receipt of your application received on the 3rd October, 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. **L01/0/224889** dated 4th October, 2023 refers, receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 626**.
This should be quoted in all correspondence and telephone queries.

Mise le meas,



Tracy Davis,
Senior Executive Planner,
Planning Department.

CEO
Roscommon Co Council
Planning Section
Aras an Chontae
Roscommon



Fallon Avenue
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Co. Roscommon
F42 W327
090 6626974
Fax : 090 6627353
Mobile : 086 8115449
Email : gaynorarchitects@gmail.com

2nd October 2023

Dear Sir

**Proposed demolition of derelict stores at Castle Avenue, Cloonbrackna,
Roscommonon
Application for Declaration under Section 5 of the Planning and
Development Act 2000 (as amended) Exempted Development**

Further to our recent discussions with Roscommon Co. Council planning section it is unclear if the proposed demolition dangerous and derelict structure at Castle Avenue, Cloonbrackna, Roscommon is subject to planning application or not

We have carried out structural survey of structure and at this stage it is dangerous and derelict and requires demolition to avoid further damage and possible total collapse of roof and masonry walls onto public Road

Attached is completed Section 5 application form, site location maps and recent photographs

Please let us have an early to application as the matter is urgent

We did request directions on the matter by letter and photographs on 5th June 2023 but to date did not receive a reply (copy attached)

Yours Sincerely

A handwritten signature in blue ink, appearing to read 'Ignatius Gaynor'.

Ignatius Gaynor

Urgent

**CEO
Roscommon Co. Council
Planning Section
Aras an Chontae
Roscommon**

5th June 2023



Fallon Avenue
Roscommon
Co. Roscommon
F42 W327
090 6626974
Fax : 090 6627353
Mobile : 086 8115449
Email : gaynorarchitects@gmail.com

To whom it concerns

**Proposed demolition of derelict/dangerous structure at
Carrownabrickna, Castle Avenuewelling and site at Cloonbrackna,
Roscommon for Barry Molloy Registered owner**

We refer to the above and wish to inform Roscommon Co Council that our client and registered owner of derelict/dangerous structure (stables and storage) will be demolished in due course under the Local Gov. Dangerous (Sanitary Services) Act 1964 (Amended)

Following recent structural survey and 2022 storm damage part of the roof was dislodged and debris onto public road

We are aware following pre-planning meeting ref PP4249 (for development of site for dwelling including demolition of structure) that the area was included in Roscommon Town Area Plan as green area and planning permission would not be granted for development or existing structure refurbished

It is considered that existing is completely derelict and in a dangerous condition, is not covered by Insurance which leaves our client no alternative but to demolish (see attached photographs and site location maps)

It is proposed to demolish structure within the next 6 weeks

Please let us have your comments and recommendation on this urgent matter

If further details or information is required please do not hesitate to contact us

Yours Sincerely

A handwritten signature in blue ink, appearing to read 'Ignatius Gaynor'.

Ignatius Gaynor



Comhairle Contae
Ros Comáin
Roscommon
County Council



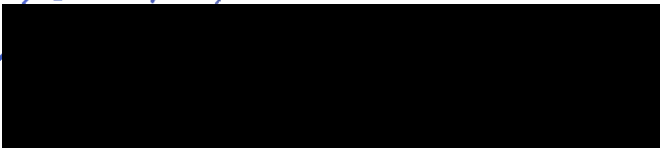
Áras an Chontae,
Roscommon,
Co. Roscommon.

Phone: (090) 6637100

Email: planning@roscommoncoco.ie

Roscommon County Council

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

Name:	BARRY MULLOY c/o GAYNOR ARCHITECTS
Address:	
Name & Address of Agent:	IGNATIUS GAYNOR GAYNOR ARCHITECTS VALUOH AVENUE ROSCOMMON
Nature of Proposed Works	DEMOLITION OF DANGEROUS & DERELICT STRUCTURE
Location (Townland & O.S No.)	CLODBRACKNA, CASTLE AVENUE
Floor Area 130 sq. METS.	ROSCOMMON
Height above ground level	5.50 METS APPROX.
Total area of private open space remaining after completion of this development	AS FLOOR AREA
Roofing Material (Slates, Tiles, other) (Specify)	GALVANISE SHEETING ON DECAYED TIMBER STRUCTURE
Proposed external walling (plaster, stonework, brick or other finish, giving colour)	PLASTER ON STONEWORK WITH JOINTS DECAYED
Is proposed works located at front/rear/side of existing house.	N/A (SEE PHOTOGRAPHS)



Roscommon County Council

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

Has an application been made previously for this site	NIL
If yes give ref. number (include full details of existing extension, if any)	N/A
Existing use of land or structure	ZONED GREEN AREA
Proposed use of land or structure	AS EXISTING GREEN AREA
Distance of proposed building line from edge of roadway	ON SIDE OF PUBLIC ROAD CASTLE AVENUE, ROSCOMMON
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:

Ignatius Gaynor pp. *BARRY MOLLOY*

Date:

2nd OCTOBER 2023

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 *N/A.*





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Mobile: 086 8115449

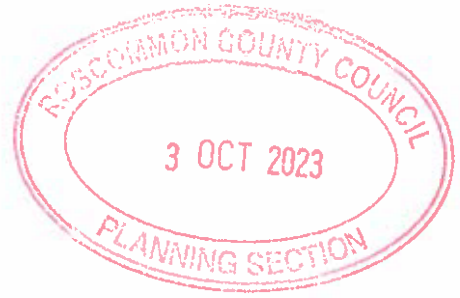
Email: gaynorarchitects@gmail.com



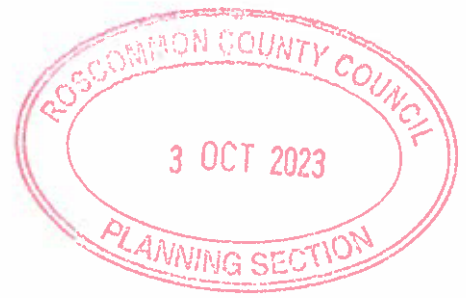
Road alignment towards Castle St.



*Road alignment towards Castle &
Loughnanane Park*



*Side elevation of existing structures
to be demolished.*



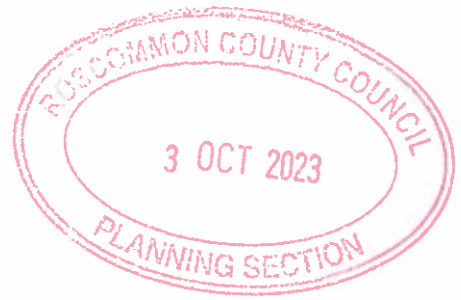
*Side elevation of structure to
be demolished.*



*End elevation of structure to
be demolished.*



*Rear elevation of structure
to be demolished*



*Rear elevation of structure
to be demolished*



*General view of proposed site
with Roscommon Castle in
the background.*





Roscommon County Council
Aras an Chontae
Roscommon
09066 37100

04/10/2023 10:32:24

Receipt No. : L01/0/224889

GAYNOR ARCHITECTURAL & DESIGN
SERVICES LIMITED

PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED 626	

Total : 80.00 EUR

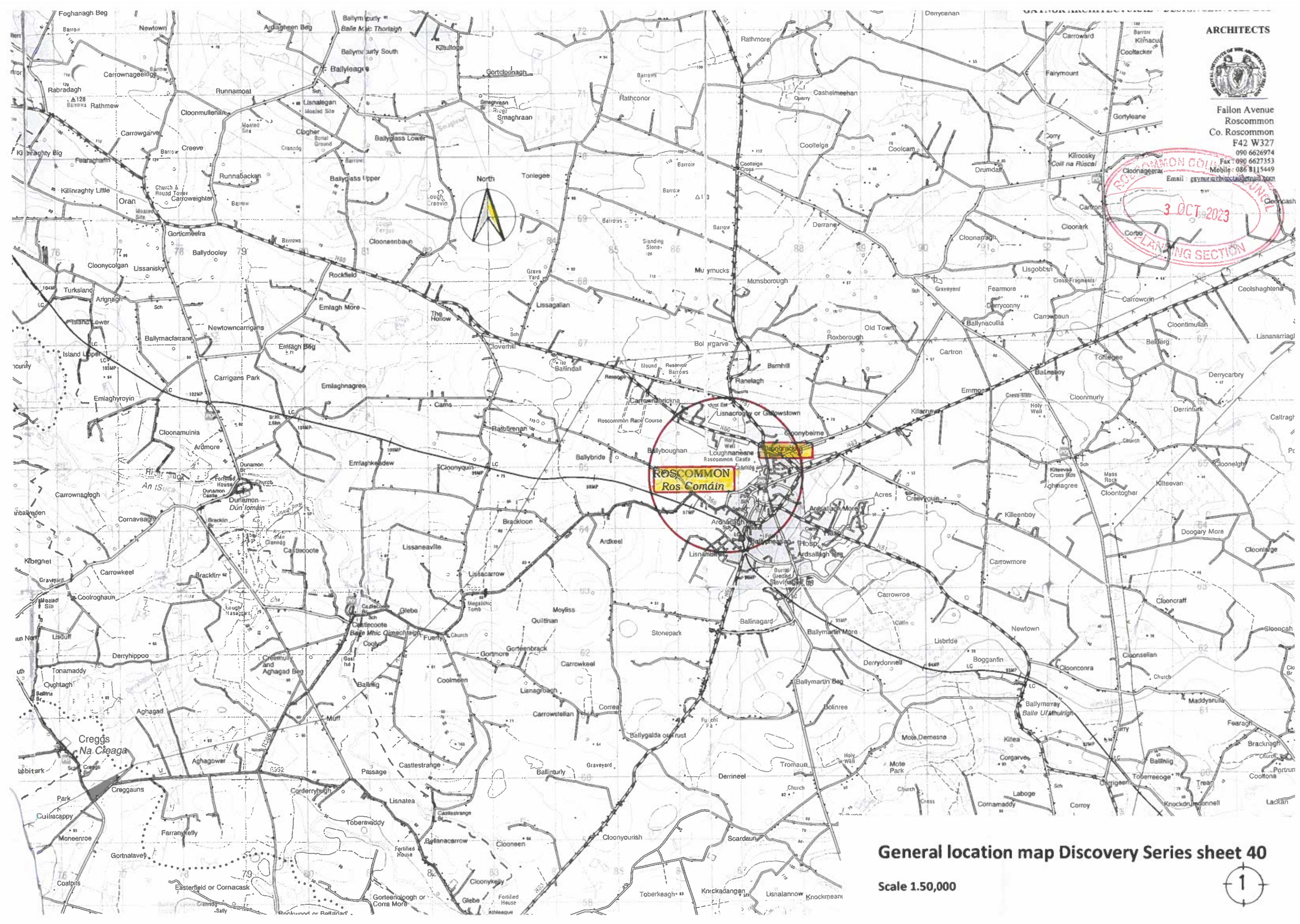
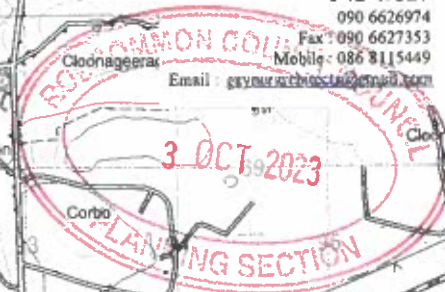
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Issued By : Bernadine Duignan
From : Central Cash Office



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Email: geymour@roscommoncouncil.ie



General location map Discovery Series sheet 40

Scale 1:50,000





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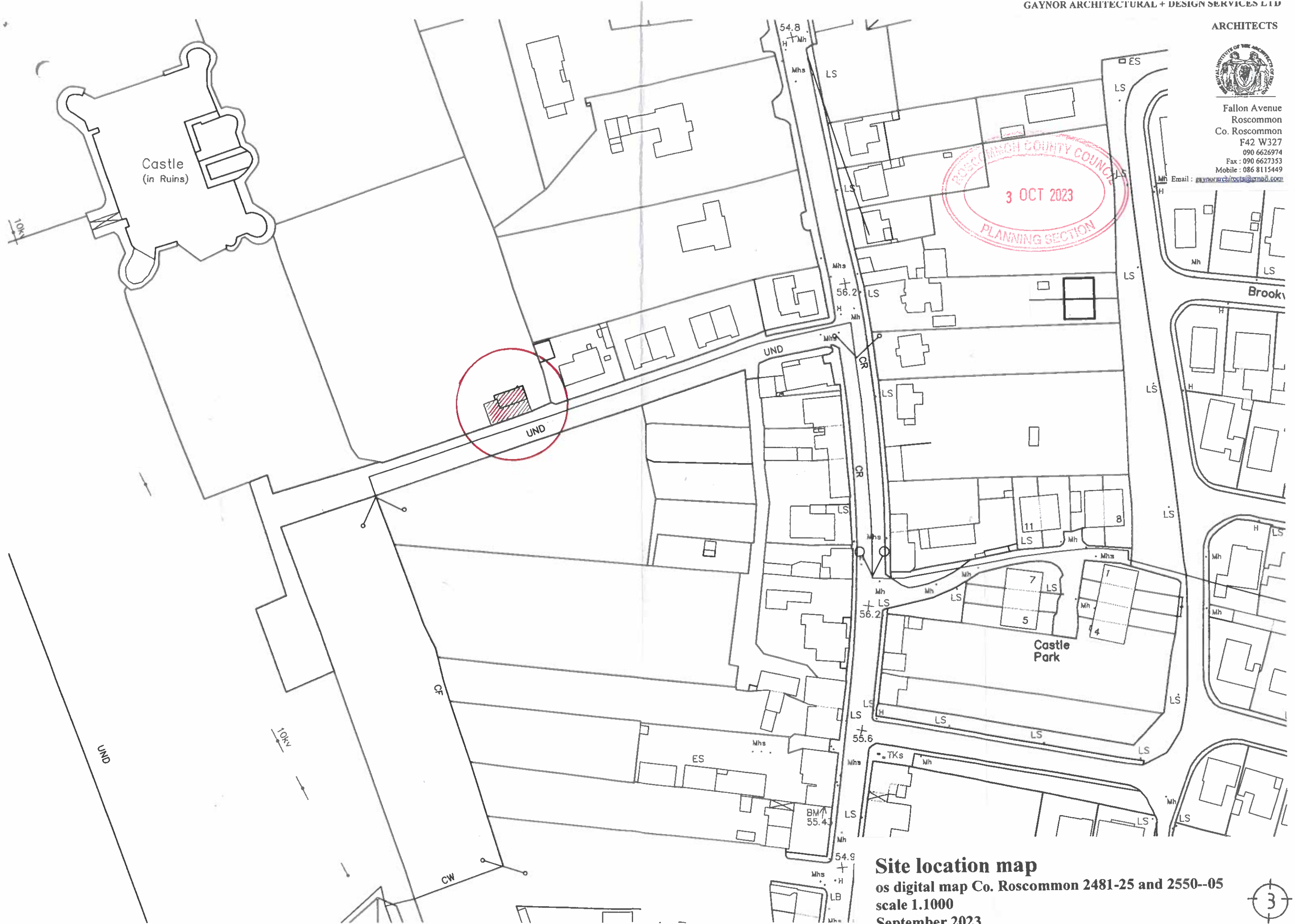


Site location map
os digital map Co. Roscommon 2481-25 and 2550--05
scale 1:2500
September 2023





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Site location map
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scale 1:1000
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