

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

REGISTERED POST

Michael Beattie,

Reference Number: DED 628

Application Received: 17th November, 2023

Applicant: Michael Beattie

Location: Turlough Td., Knockcroghery, Co. Roscommon.

Agent: Joseph Carty, Agricultural Consultant, Northbrook, Kilconnell,
Ballinasloe, Co. Galway H53 YO90

WHEREAS a question has arisen as to whether a proposed development to lay 1042m of farm roadway at Turlough Td., Knockcroghery, Co. 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, 4 and 5 of the Planning and Development Act, 2000 (as amended);
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001 (as amended);
- (c) Class 13 of Schedule 2, Part 1 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.

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 to lay 1042m of farm roadway is not exempted development as defined in the Planning & Development Act 2000 (as amended) and associated Regulations.

NOW THEREFORE:

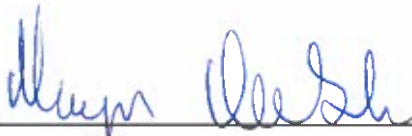
By virtue of the powers vested in me by the Local Government Acts 1925 – 2019 and Section 5(2)(a) of the Planning and Development Act 2000 (as amended) and, having considered the various submissions and reports in connection with the application described above, it is hereby declared that the said works consisting of the proposed development to lay 1042m of farm roadway at Turlough Td., Knockcroghery, Co. 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 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:



Mervyn Walsh,
Senior Staff Officer,
Planning.

Date: 14th December, 2023

CC: Joseph Carty, Agricultural Consultant,
Northbrook,
Kilconnell,
Ballinasloe,
Co. Galway H53 YO90

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

Reference Number:	DED 628
Re:	Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development for the laying of farm roadways
Name of Applicant:	Michael Beattie
Location of Development:	Turlough, Knockcroghery, Co. Roscommon

WHEREAS a question has arisen as to whether the following works; the laying of farm roadways at the above address 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 Act, 2000, as amended
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended
- (c) Class 13 of Schedule 2, Part 1 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 subject site is located in Turlough, Knockcroghery, Co. Roscommon. The lands are in agricultural use and are located to the west of the applicants existing farmyard and farmhouse. The proposed development consists of the laying of farm roadways along existing field boundaries.

Proposed Specifications:

- Length: 1042m (1.042km)
- Width: 4.1m
- Finishes: 804 crushed stone material

Planning History

01/760 – Michael Beattie was granted permission for cattle housing

07/398 - Michael Beattie was granted permission to erect two walled silage silos and a roofed farmyard manure store with associated site works

18/22 - Michael Beattie was granted permission for a sheep shed and ancillary concrete works

Site Specific Constraints

The subject lands are located c.1km northwest of the nearest European designated site, which is Lough Funshinagh SAC (Site Code 00611). A section of the proposed roadway is located within the zone of influence of recorded monument RO045-032 Ringfort. The applicant has submitted a supporting letter from the National Monuments Service (Department of Housing, Local Government and Heritage) which states that in general, it has no concerns about the proposals potential to impact on the Recorded Monument, subject to conditions.

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.

Section 4(1) of the Act defines certain types of development as being 'exempted development'.

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

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) applies;

Development to which Article 6 relates shall not be exempted development for the purposes of the Act

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,

Class 13 of Schedule 2, Part 1: Exempted development – General

Description of Development	Conditions and Limitations
CLASS 13 The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.	The width of any such private footpath or paving shall not exceed 3 metres.

The question to be determined in this Section 5 referral is whether the proposal to lay 1042m of farm roadway on private farmland at Turlough, Knockcroghery, Co. Roscommon 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 proposed development constitutes works and is therefore development.

With Regard to Article 9 (1)(a)(viiB)) of the Planning and Development Regulations, it is reasonable to conclude that on the basis of the information available, which I consider adequate, that the proposed

development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the need for EIAR or AA does not apply with respect to the current referral case.

Assessment of information received:

With regard to the existing proposal for the laying of 1042m of farm roadway, and its compliance with the conditions and limitations of Class 13 of Part 1 of Schedule 2 (Exempted Development – General) the following sets out how these apply to the current proposal:

The Proposed road width of 4.1m exceeds the 3m provided for in the Conditions and Limitations of Class 13, as set out above.

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 works to lay 1042m of farm roadway at Turlough, Knockcroghery, Co. Roscommon does not comply with the conditions and limitations of Class 13 of Part 1 Schedule 2 of the Planning and Development Regulations.
- The proposal does not constitute exempted development.

Recommendation

WHEREAS a question has arisen as to whether a proposed development to lay 1042m of farm roadway at Turlough, Knockcroghery, 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 6 of the Planning and Development Regulations 2001, (as amended).**
Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).
- (c) Article 9 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 Act 2000, (as amended).**
- (e) The planning history of the site**

AND WHEREAS I have concluded that

- The works to lay 1042m of farm roadway are development.
- The works to lay 1042m of farm roadway at Turlough, Knockcroghery, Co. Roscommon do not fall within Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 as amended.
- Given that the development does not fall within the provisions within Class 13 of Part 1 of Schedule 2 of Planning and Development Regulations, I have concluded that the proposal is not exempted development.

AND WHEREAS I have concluded that the said development to lay 1042m of farm roadway at Turlough, Knockcroghery, Co. Roscommon is not exempted development and I recommend that a declaration to that effect should be issued to the applicant.



Signed
Executive Planner

Date: 14th December 2023



01/260
18/22
07/398
R 0/04949
R 0045-032

Michael Beattie,



Date: 22nd November, 2023.

Planning Reference: DED 628

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

Development: Proposed farm roadway at Turlough Td., Knockcroghery, Co. Roscommon.

A Chara,

I wish to acknowledge receipt of your application received on the 17th November, 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. L01/0/225638 dated 17th November, 2023 refers.

Note: Please note your Planning Reference No. is **DED 628**.

This should be quoted in all correspondence and telephone queries.

Mise le meas,

A handwritten signature in blue ink that reads "Tracy Davis" is written over a horizontal line.

Tracy Davis,
Senior Executive Planner,
Planning Department.

c.c. Joseph Carty,
Agricultural Consultant,
Northbrook,
Kilconnell,
Ballinasloe,
Co. Galway.

Roscommon County Council
Aras an Chontae
Roscommon
09066 37100

17/11/2023 11:42:15

Receipt No. : L01/0/225638

MICHAEL BEATTIE
C/O JOE CARTY
AGRICULTURAL CONSULTANT
NORTHBROOK
KILCONNELL
BALLINASLOE
CO. GALWAY H53 YO90

PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED 628	

Total : 80.00 EUR

Tendered :
Cheque 80.00
001861

Change : 0.00

Issued By : Bernadine Duignan
From : Central Cash Office

Joe Carty
Agricultural Consultant

Northbrook
Kilconnell
Ballinasloe
Co. Galway
H53 Y090

16/11/2023

Planning & Sustainable Development Unit
Roscommon County Council
Arás an Chontae
Roscommon
Co. Roscommon

Planning Exemption Application
Michael Beattie, Turlough, Knockcroghery, Co. Roscommon

A Chara

Enclosed Please find an Application for a Declaration under Section 5 of the Planning & Development Act 2000, regarding and Exempted Development.

The Application is for a Farm Roadway 1038m long.

The roadway encroaches on the buffer area of a National Monument, so we have sought clarification from the National Monuments Service. Their reply is attached. They have no objection to the Proposed works providing the conditions as outlined on their letter is adhered to.

If you have any queries or require any further information, do not hesitate to contact me.

Regards



Joe Carty





Comhairle Contae
Ros Comáin
Roscommon
County Council

Áras an Chontae,
Roscommon,
Co. Roscommon.

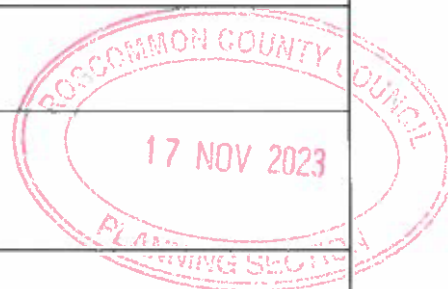
Phone: (090) 6637100

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 Beattie
Address:	[REDACTED]
Name & Address of Agent:	Joseph Carty Agricultural Consultant Northbrook, Kilconnell Ballinasloe, Co. Galway 087 8119145
Nature of Proposed Works	Farm Roadway
Location (Townland & O.S No.)	Turlagh T.D. 2757, 2758
Floor Area	
Height above ground level	N/A
Total area of private open space remaining after completion of this development	N/A
Roofing Material (Slates, Tiles, other) (Specify)	N/A
Proposed external walling (plaster, stonework, brick or other finish, giving colour)	N/A
Is proposed works located at front/rear/side of existing house.	N/A



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)	N/A
Existing use of land or structure	Agricultural Land
Proposed use of land or structure	Farm Roadway
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:

Joe Caity (Agent)

Date:

15/11/2023

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





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

Mr. Michael Beattie

10.10.23

Email: [REDACTED]
[REDACTED]

Re: Proposed farm road in relation to Recorded Monument RO045-032 Ringfort, Turlagh townland, Co. Roscommon.

Dear Mr. Beattie,

Thank you for the notice submitted regarding proposed work in relation to Recorded Monument RO045-032 Ringfort.

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 26.6.23. 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:

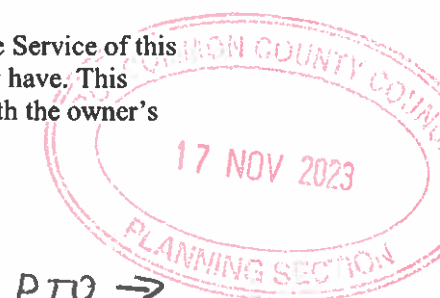
On the basis of the information submitted to the National Monuments Service, the Department will have no objection to the development of a farm road provided that it follows the details as submitted, i.e.,

- a) That the road will be developed along an existing track that is located circa 40m from the known edge of the Recorded Monument
- b) That no excavation will be required
- c) That the proposed farm road will be no more than 4m wide

If there any changes to the proposal submitted you should notify the National Monuments Service in advance of the works, to advise them of any proposed changes and to seek their recommendations.

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.

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



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

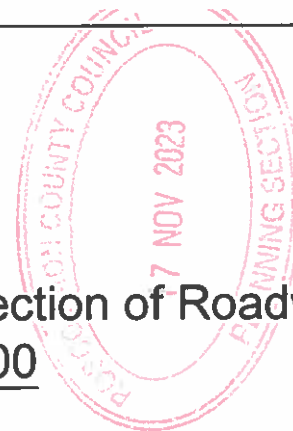
Yours sincerely,



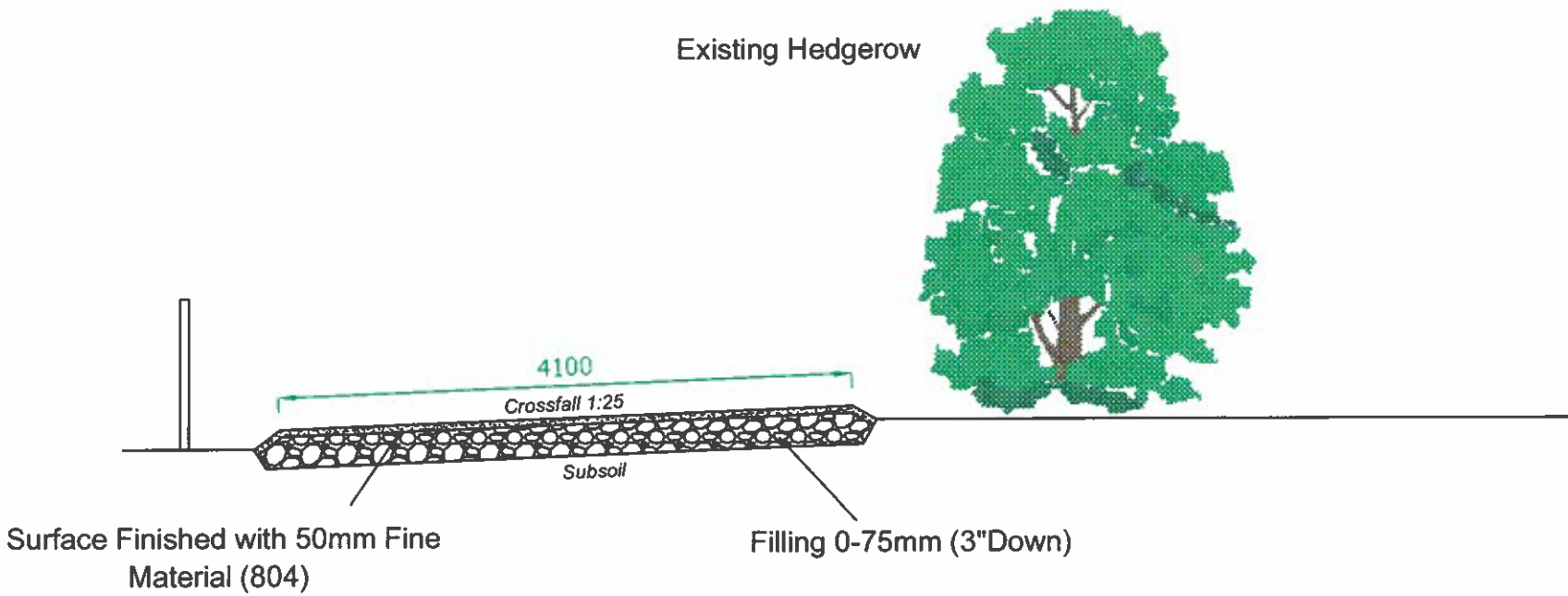
Christine Grant
Archaeologist
National Monuments Service

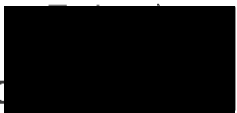
Email: Christine.Grant@housing.gov.ie

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



Typical Section of Roadway
Scale 1:100



Joe Carty Agri-Consultant Northbrook Kilconnell Ballinasloe Co Galway	Client: Michael Beattie 	Project: Proposed Farm Roadway	Date: 15/11/23
		Drawing Title: Plans	Scale: 1:100 @A4

Planning Pack map



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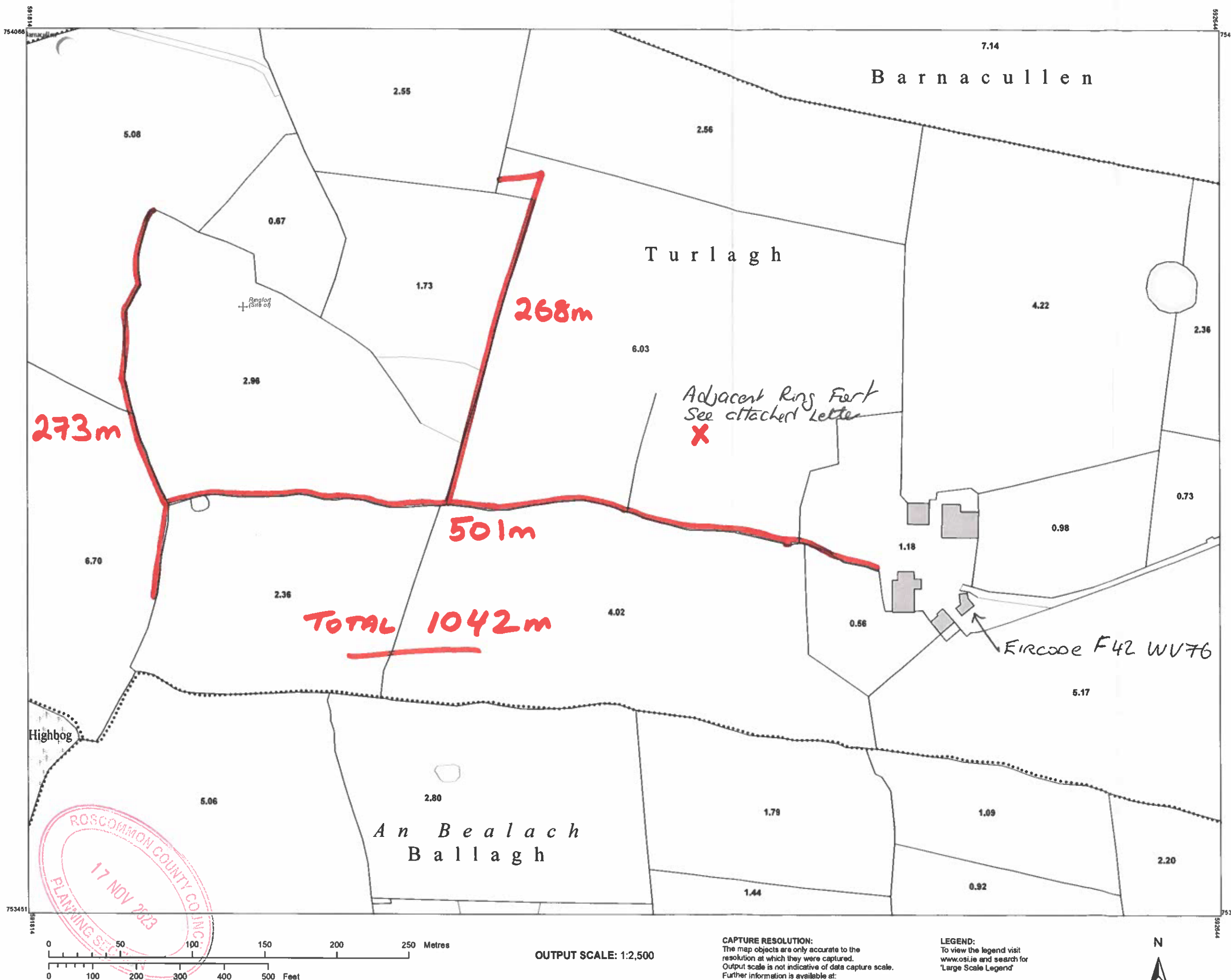
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Ref: Michael Beattie

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Site Location Map



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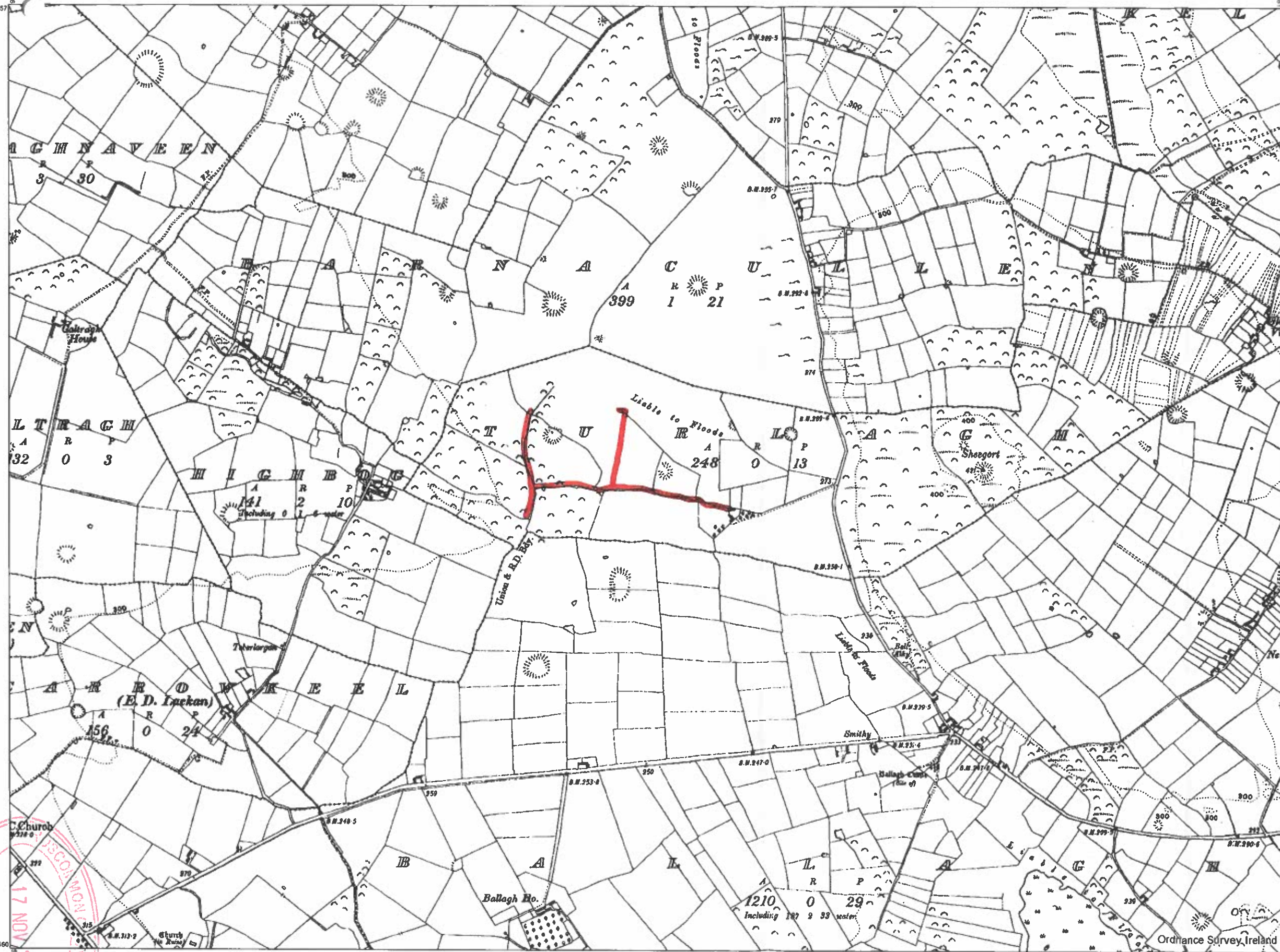
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0 225 450 675 900 1,125 Metres
0 425 850 1,275 1,700 2,125 Feet

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