

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

REGISTERED POST

Elphin Area Community Enterprise Ltd,
Lidsuff,
Elphin,
Co. Roscommon.

Reference Number: DED 668
Application Received: 26th February 2024
Name of Applicants: Elphin Area Community Enterprise Ltd
Agent: N/A

WHEREAS a question has arisen as to whether the installation of a wheelchair accessible toilet, hand basin and heated handrail at Lidsuff, Elphin, 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, 9 and 10 of the Planning and Development Regulations, 2001, as amended.
- (c) 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.
- (d) The planning history of the site.

AND WHEREAS Roscommon County Council has concluded that:

- (a) The works outlined above are development.
- (b) The works fall within the provisions of Section 4(1)(h) of the Planning & Development Act 2000 as amended.
- (c) 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 requirement for AA or EIAR does not apply with respect to the current case.

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 development **to install a wheelchair accessible toilet, hand basin and heated handrail at Lidsuff, Elphin, Co. Roscommon., is development that is exempted development** as defined within the Planning and Development Act 2000 (as amended) and associated Regulations.

Signed on behalf of the Council:



Alan O'Connell,
Senior Executive Planner,
Planning.

Date: 26th June 2024

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

Reference Number:	DED 668
Re:	Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development to install a wheelchair accessible WC.
Name of Applicant:	Elphin Area Community Enterprise
Location of Development:	Windmill Enterprises, Kilacumsey, Elphin, Co. Roscommon, F45 E289
Site Visit:	12/06/2024

WHEREAS a question has arisen as to whether the following works; to install (a) wheelchair toilet and hand-basin, heater (and) handrail 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, 9 and 10 of the Planning and Development Regulations, 2001, as amended
- (c) 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.
- (d) The planning history of the site

Site Location & Development Description

This application relates to “Windmill Cottage”, located at ‘Windmill Enterprises, Kilacumsey, Elphin, Co. Roscommon’. The site and buildings thereon, are situated to the west of the L1400. This local road merges with the N61 (towards Boyle) in a north-westerly progression and merges with the R369 in a southerly progression.

“Windmill Cottage” is used as a visitor’s centre/museum, which is ancillary to the protected windmill structure, also located within the bounds of the site. The proposed development to “Windmill Cottage” includes for refurbishment works to encompass provision for a “wheelchair toilet” as well as a “hand-basin, heater (and) handrail” within the existing footprint of the building and approximately 4m² in size. The applicant advises that there are existing sanitary facilities within the building and proposes to extend the piped water supply from the kitchen to the proposed wheelchair accessible WC. The ‘Site Layout Plan’ issued as part of this application, illustrates the need to provide a new/additional connection to the existing on site sewerage facilities

Archaeological and Cultural Heritage

As per Roscommon County Council’s *Geographical Information Systems* (GIS), “Windmill Cottage” is situated on a site comprising a protected structure – “The Windmill” (RPS: 01600160) which has been registered by the ‘National Built Heritage Service’ in the ‘National Inventory of Architectural Heritage’ (NIAH) (Registration Number: 31810010) and recorded by the National Monuments Services (NMS) via the ‘Sites and Monuments Record’ (SMR) (SMR Number: RO016-102002-).

As stated, Windmill Cottage serves as a visitor’s centre/museum which is ancillary to the detached, circular-plan, three-stage windmill, built in circa 1730 and restored in 1996 (RPS: 01600160). “Windmill Cottage” falls within an Archaeological Zone of Notification (Reference: R163978) and as such, “works” may be subject to the provisions of section 12(3) of the National Monuments (Amendment) Act, 1994.

The property is not located within or adjacent to any *Architectural Conservation Area*; but is located 0.9km to the north-west of the Elphin ACA.

Appropriate Assessment

There are no European designated sites in, adjoining or in close proximity to the subject site. The closest SAC site is 'Annaghmore Lough' (Site Code: 001626) which is located 6.1km to the south-east of the subject site.

Having regard to the separation distance between the site and the closest Natura 2000 site and the nature of the proposal, there is no real likelihood of significant effects on the conservation objectives of these or other European sites arising from the proposed development. The need for further Appropriate Assessment, therefore, can be excluded.

Planning History

As per an assessment of Roscommon County Council's Planning Registry, the planning history pertinent to the site for which a section 5 referral has been made, includes the following:

P&D references:

1. 21583 [application withdrawn]
2. 21422 [incomplete application]
3. 991380
4. 97803

Relevant statutory provisions:

Planning and Development Acts 2000 (as amended)

Section 2 (1)

Under this section, "works" include "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)

Under this section, "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)

Defines certain types of development as being 'exempted development'. Of potential relevance is section 4(1)(h) which provides as follows:

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

Section 4 (2)

Provides that the Minister may, 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.

Article 6 (1)

Subject to article 9, development of a class specified in column 1 of Part 3 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 3 opposite the mention of that class in the said column 1.

Article 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 work would-

- (i) Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under 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.

Assessment

Hereunder, the statutory provisions pertinent to this section 5 referral have been set out, they are as follows;

In accordance with the Planning and Development Act, 2000, section 3(1) “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”. The proposed development is considered to comprise the carrying out of works. Under section 2(1) of the Act, “works” include “any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure (...)”. It is considered that said works constitute development, as defined in section 3 of the said Act.

The proposal includes for the installation of a wheelchair toilet (and) hand-basin, heater (and) handrail within the existing footprint of “Windmill Cottage” in a proposed floor area of circa 4m². These works have been considered within the context of Section 4(1)(h) of the Act, consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

Under the provisions of section 4(1)(h), the proposal for “Windmill Cottage” is permissible in principle. The plans and particulars issued on foot of the application were reviewed, and a site visit conducted [on the 12/06/2024] to assess the particulars within the context of the site itself. On the question as to whether the proposed works fall within the provisions of section 4(1)(h) of the Planning & Development Act, 2000, I am satisfied that they do, and therefore constitute exempted development.

As regard to Article 9(1)(a) of the Planning and Development Regulations, it is reasonable to conclude, on the basis of the information available, 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 AA does not apply with respect to this current case.

I am satisfied that an Environmental Impact Statement or Appropriate Assessment are not required. It should be noted that any development for which Environmental Impact Assessment (EIA) 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 in Article 9(1)(a) (viiB) exclude development which would otherwise be exempted development under these regulations, where an AA is required.

Recommendation

WHEREAS a question has arisen as to whether a proposed development; to install a wheelchair toilet and hand-basin, heater (and) handrail at the site located at Windmill Enterprises, Kilacumsey, Elphin, Co. Roscommon, F45 E289, is or is not development and is or is not exempted development, I have considered this question, and I have had regard particularly to –

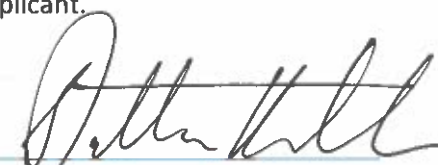
- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 as amended.
- (d) The planning history of the site

AND WHEREAS I have concluded that

- The works outlined above are development.
- The works fall within the provisions of Section 4(1)(h) of the Planning & Development Act 2000 as amended.
- 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 requirement for AA or EIAR does not apply with respect to the current case.

AND WHEREAS I have concluded that the said development: - "to install a wheelchair toilet and hand-basin, heater (and) handrail", **at the site located at:** - "Windmill Cottage" Kilacumsey, Elphin, Co. Roscommon, F45 E289; constitutes exempted development. I recommend that a declaration to that effect should be issued to the applicant.

Signed:



Date: 18th June 2024

Blaithín Kinsella

Assistant Planner

Signed:



Date: 18th June 2024

Alan O'Connell

Senior Executive Planner

Appendix: Site Photos

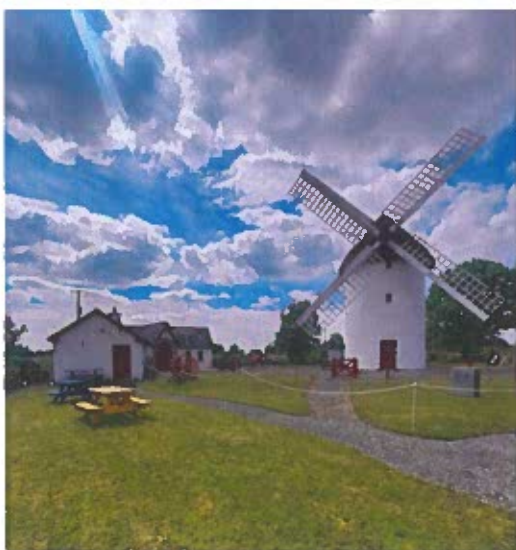


Image 1: Panoramic of Windmill Cottage Site



Image 2: View on approach to Windmill cottage from L1400



Image 3: North Elevation of Windmill Cottage



Image 4: On site Manhole/Inspection Chamber



Comhairle Contae
Ros Comáin
Roscommon
County Council



Elphin Area Community Enterprise Ltd,



Date: 27th February 2024

Planning Reference: DED 668

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

Development: Permission to install a wheelchair toilet, hand basin and heated handrail under the Planning & Development Act (Exempt Development) Regulations 2018 at Kilcumsey, Elphin, Co. Roscommon.

A Chara,

I wish to acknowledge receipt of your application received on the 26th February 2024, 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. **L01/0/227263** dated 26th February 2024, receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 668**
This should be quoted in all correspondence and telephone queries.

Mise le meas,

Alan O'Connell
Senior Executive Planner,
Planning Department.

Roscommon County Council
Aras an Chontae
Roscommon
09068 37100

26/02/2024 15:40:01

Receipt No. L01/0/227263

ELPHIN AREA COMMUNITY ENTERPRISE LTD.

PLANNING APPLICATION FEES 80.00
GOODS 80.00
VAT Exempt/Non-vatable
DED668

Total 80.00 EUR

Tendered
Cheque 80.00
001035

Change 0.00

Issued By: Bernadine Duignan
From: Central Cash Office



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 of Applicant(s)	ELPHIN AREA COMMUNITY ENTERPRISE LTD.
Name of Agent	N/A
Nature of Proposed Works	Propose to install wheelchair toilet and hand basin, floor handrail.
Location & Address of Subject Property to include, Eircode (where applicable), Townland & O.S No.	F45 E 289.
Floor Area: a) Existing Structure b) Proposed Structure	a) <u>97.2 m²</u> MUSEUM b) <u>4 m²</u> Bathroom
Height above ground level:	at ground level.
Total area of private open space remaining after completion of this development	
Roofing Material (Slates, Tiles, other) (Specify)	not

Roscommon County Council

Application for a Declaration under Section 5 of the

Proposed external walling (plaster, stonework, brick or other finish, giving colour)	N/A.
Is proposed works located at front/rear/side of existing house.	at the back of the Windmill site.
Has an application been made previously for this site	
If yes give ref. number (include full details of existing extension, if any)	
Existing use of land or structure	It is a museum, where we intend to place a wheelchair bathroom in one corner of the building.
Proposed use of land or structure	museum.
Distance of proposed building line from edge of roadway	
Does the proposed development involve the provision of a piped water supply	extend pipe from existing water supply in the kitchen.
Does the proposed development involve the provision of sanitary facilities	yes. It's just a matter of joining up with the existing facilities.

Planning & Development Act 2000 (as amended), regarding Exempted Development

Signature: Daire Byrne

Date: 8th February 2024

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



Planning Pack Map



National Mapping Agency

CENTRE COORDINATES:
ITM 586624,789096

PUBLISHED: 20/06/2018
ORDER NO.: 50012563_2

MAP SERIES: 1:5,000 1982
MAP SHEETS: 1:2,500 2041-B

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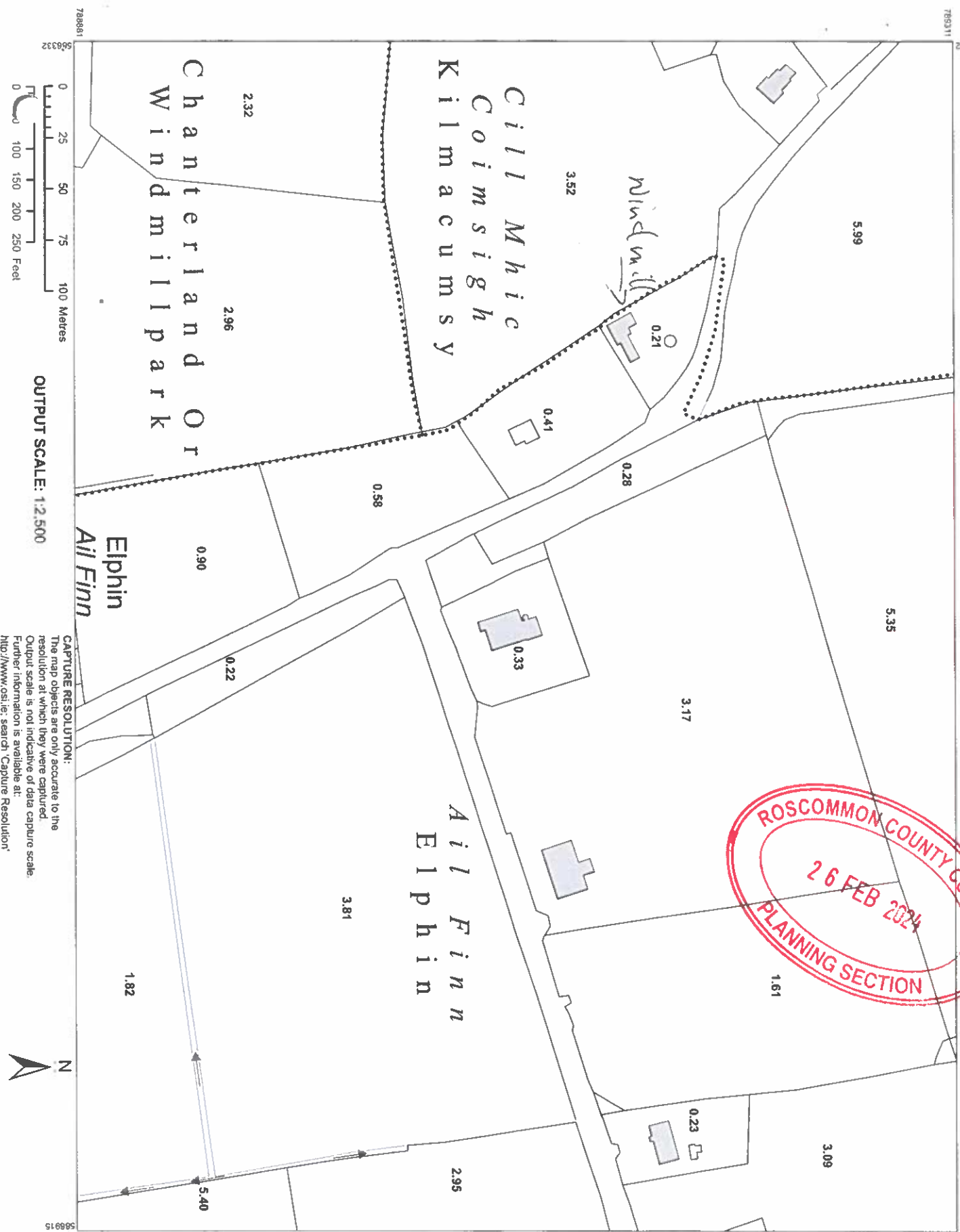
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Site Location Map

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ITM 586624, 789096

PUBLISHED: 20/06/2018
ORDER NO.: 50012563_2

MAP SERIES: 6 inch Raster
MAP SHEETS: 9900-20
6 inch Raster RN016

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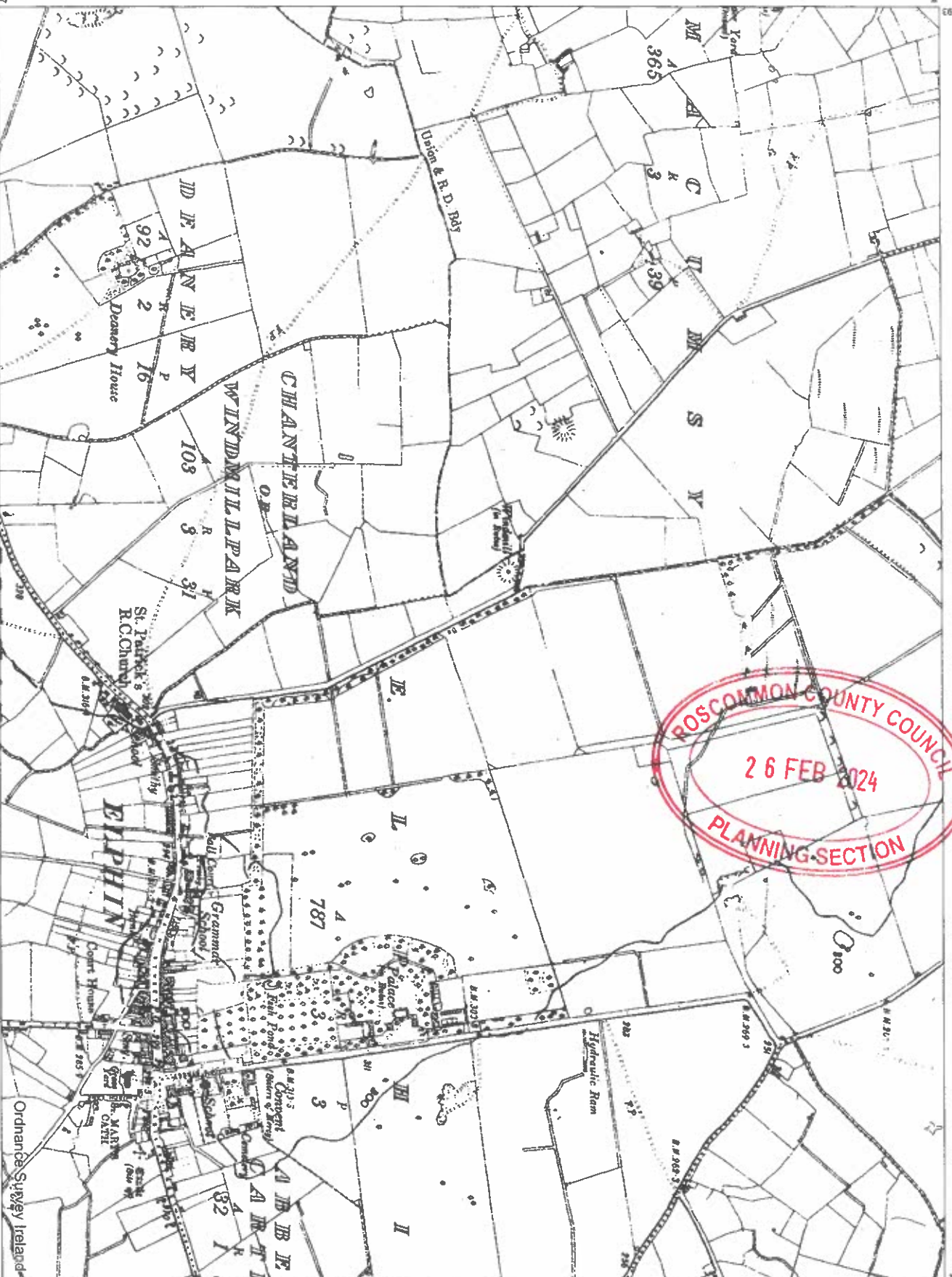
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Area of Building

$$12.2 \times 6.0 \text{ M} = 73.2 \text{ M}^2$$

$$6.0 \times 4.0 \text{ M} = 24.0 \text{ M}^2$$

$$\text{TOTAL AREA } 97.2 \text{ M}^2$$

PrePosed Toilet

$$2.0 \text{ M} \times 2.0 \text{ M} = 4 \text{ M}^2$$

