

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

REGISTERED POST

Dympna O'Regan,



Reference Number: DED 676

Application Received: 5th March 2024

Name of Applicants: Dympna O'Regan

Agent: O'Regan Little, 7 Windtavern Street, Christ Church, Dublin 8.

WHEREAS a question has arisen as to whether the relocation of an agricultural entrance with existing stone wall at Cootehall, Boyle, 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) Article 6 Schedule 2 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 Roscommon County Council has concluded that:

- (a) The works are development.
- (b) The construction of relocated agricultural entrance with existing stone wall as described in this case is not an exempted development, as the new entrance/access point is entering onto a public road which is more than 4m in width.
- (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 **relocate an agricultural entrance with existing stone wall at Cootehall, Boyle, Co. Roscommon.,** is development that is **not 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: 17th May 2024

cc agent: **O'Regan Little,
7 Windtavern Street,
Christ Church,
Dublin 8**

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

Reference Number: DED 676

Re: Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development of the construction of relocated agricultural entrance with existing stone wall under the Planning & Development Act (Exempt Development) Regulations 2018 at Cootehall, Boyle, Co. Roscommon.

Applicants: Dympna O'Regan

Date: 17th May 2024

WHEREAS a question has arisen as to whether the construction of relocated agricultural entrance with existing stone wall at Cootehall, Boyle, 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 Act, 2000, as amended
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended
- (c) Article 6 Schedule 2 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

Site Location & Development Description

The subject site is located in the townland of Cootehall, Boyle, Co. Roscommon and appears to be providing access to agricultural farmland/farm sheds. The site is accessed via the L-1016, east of the Cootehall bridge crossing the Boyle river in Cootehall.

The proposed development consists of the relocation of the existing entrance to farmland as shown in the documents provided.

Archaeological and Cultural Heritage

No RMP recorded in the likely zone of influence of the proposed development. Cootehall Bridge is next to the proposed development but is outside the likely zone of influence of the bridge.

Appropriate Assessment

The closest European site to the site of the proposed development is Lough Drumharlow PNHA (Site Code 001643) which is located circa 50m to the west.

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, be excluded.

Planning History

As per the Roscommon County Council's Planning Registry, no recent planning files found.

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 (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 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) 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.

Assessment

In accordance with the Planning and Development Act, 2000, as amended Section 3. (1) development is defined as the following: "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". The proposed development is considered to be the carrying out of works. Works are defined in the Act as; "works" includes 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 proposed the construction of relocated agricultural entrance with existing stone wall constitutes development, as defined in Section 3 of the said Act.

Having reviewed the proposed works in the context of Article 9 (1)(a)(ii) of the Planning and Development Regulations, which states "consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width". The construction of relocated agricultural entrance with existing stone wall as described in this case is considered not to be exempted development, as the new entrance/access point is entering onto a public road which is more than 4m in width.

With Regard to Article 9 (1)(a) of the Planning and Development Regulations, it is reasonable to conclude that on the basis of the information available, it is considered 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 EIA or AA does not apply with respect to the current referral case.

I am satisfied that an Environmental Impact Assessment Report or Natura Impact Statement are not required. It should 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 a NIS is required.

Recommendation

WHEREAS a question has arisen as to whether the construction of relocated agricultural entrance with existing stone wall at Cootehall, Boyle, 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 Act, 2000, as amended
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended
- (c) Article 6 Schedule 2 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

- a) The works are development.
- b) The construction of relocated agricultural entrance with existing stone wall as described in this case is not an exempted development, as the new entrance/access point is entering onto a public road which is more than 4m in width.
- 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.

and I recommend that a declaration to that effect should be issued to the applicant.

Signed: 
Civil Technician

Date: 17th May 2024


Signed:
Senior Executive Planner

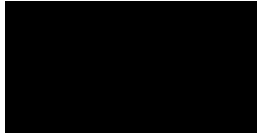
Date: 17th May 2024



Comhairle Contae
Ros Comáin
Roscommon
County Council



Dympna O'Regan,



Date: 5th March 2024
Planning Reference: DED 676

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.
Development: Permission to relocate agricultural entrance within existing stone wall under the Planning & Development Act (Exempt Development) Regulations 2018 at Cootehall, Boyle, Co. Roscommon.

A Chara,

I wish to acknowledge receipt of your application received on the 5th March 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. **L01/0/227417** dated 5th March 2024, receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 676**
This should be quoted in all correspondence and telephone queries.

Mise le meas,

Alan O'Connell
Senior Executive Planner,
Planning Department.

cc: O'Regan Little,
7 Windtavern Street,
Christ Church,
Dublin 8.

Roscommon County Council
Aras an Chontae
Roscommon
J9066 37100

05/03/2024 15:33:24

Receipt No . LD1/0/227417

DYMPNA O'REGAN
C/O O'REGAN LITTLE
SOLICITORS
7 WINDTAVERN ST
DUBLIN 8

EXEMPTED DEVELOPMENT

PLANNING APPLICATION FEES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	
DED 676	

Total : 80 00 EUR

Tendered :
Cheque 80 00
611743

ROS
MON

Comhairle Contae
Ros Common

Aras an Chontae,
Roscommon,
Co. Roscommon
Phone: (090) 66 37100
Email: planning@roscommoncoco.ie

Roscommon County Council

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

Name:	DYMPNA O'RAHAN
Address:	[REDACTED]
Name & Address of Agent:	O'RAHAN LITTLE SOLICITORS, 7 WINTAVAN STREET, CHRISTCHURCH, DUBLIN 8.
Nature of Proposed Works	Construction of relocated agricultural entrance within existing stone wall
Location (Townland & O.S No.)	Cootchall, Boyle, Co. Roscommon
Floor Area	N/A
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)	Stone to match existing wall
Is proposed works located at front/rear/side of existing house.	N/A (Rear)

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
Proposed use of land or structure	Agricultural / Access Access Road
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:


F/12 P/10 Dym DINA

Date:

4th MARCH 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) Details specification of development proposed



O'REGAN LITTLE

SOLICITORS

7 Winetavern Street,
Christchurch, Dublin 8, D08 YVHO
TELEPHONE: (01) 677 6777
FAX: (01) 672 9101
DX 1032 FOUR COURTS
E-mail: info@oreganlittle.ie

4th March 2024

The Planning Department
Roscommon County Council
Roscommon
Co. Roscommon

OUR REF: FOR/IT

YOUR REF:

Re: Our Client – Dymphna O'Regan
Application for Declaration Under Section 5 of Planning and Development Act, 2000
regarding exempted development

Dear Sirs,

We act on behalf of our above named client, Dymphna O'Regan and this application is in respect of a construction of a re-located entrance way to agricultural lands.

The current position is that the right of way presently in place and serving the lands as indicated at markings 'x' to 'y' on Land Registry compliant map hereto is proving unsuitable for continued and/or intensified use and accordingly, subject to agreement of all relevant land owners, a proposal is being made to re-site said right of way to that position as appearing on the attached potential drawings.

We are enclosing a further revised Land Registry compliant map with general indication thereon as to what is proposed in order to facilitate comprehension of the proposal itself.

We are therefore enclosing the following:

1. The application duly signed for and on behalf of our client, Dymphna O'Regan.
2. Unmarked Land Registry compliant map.
3. Drawing showing where the proposed right of way will now enter and join up with the existing right of way.
4. Our cheque in the sum of €80.

We would be obliged if you could please kindly come back to us in respect of this.

Many kind thanks in anticipation.

Yours faithfully,
Fergus O'Regan
O'REGAN LITTLE
SOLICITORS

Enc x4

Land Registry Compliant Map

CENTRE COORDINATES:
ITM 589514.803628

PUBLISHED:
13/12/2021

ORDER N°:
50239293

MAP SERIES:
1:5,000

MAP SHEI:
1742

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Phoenix Park,
Dublin 8,
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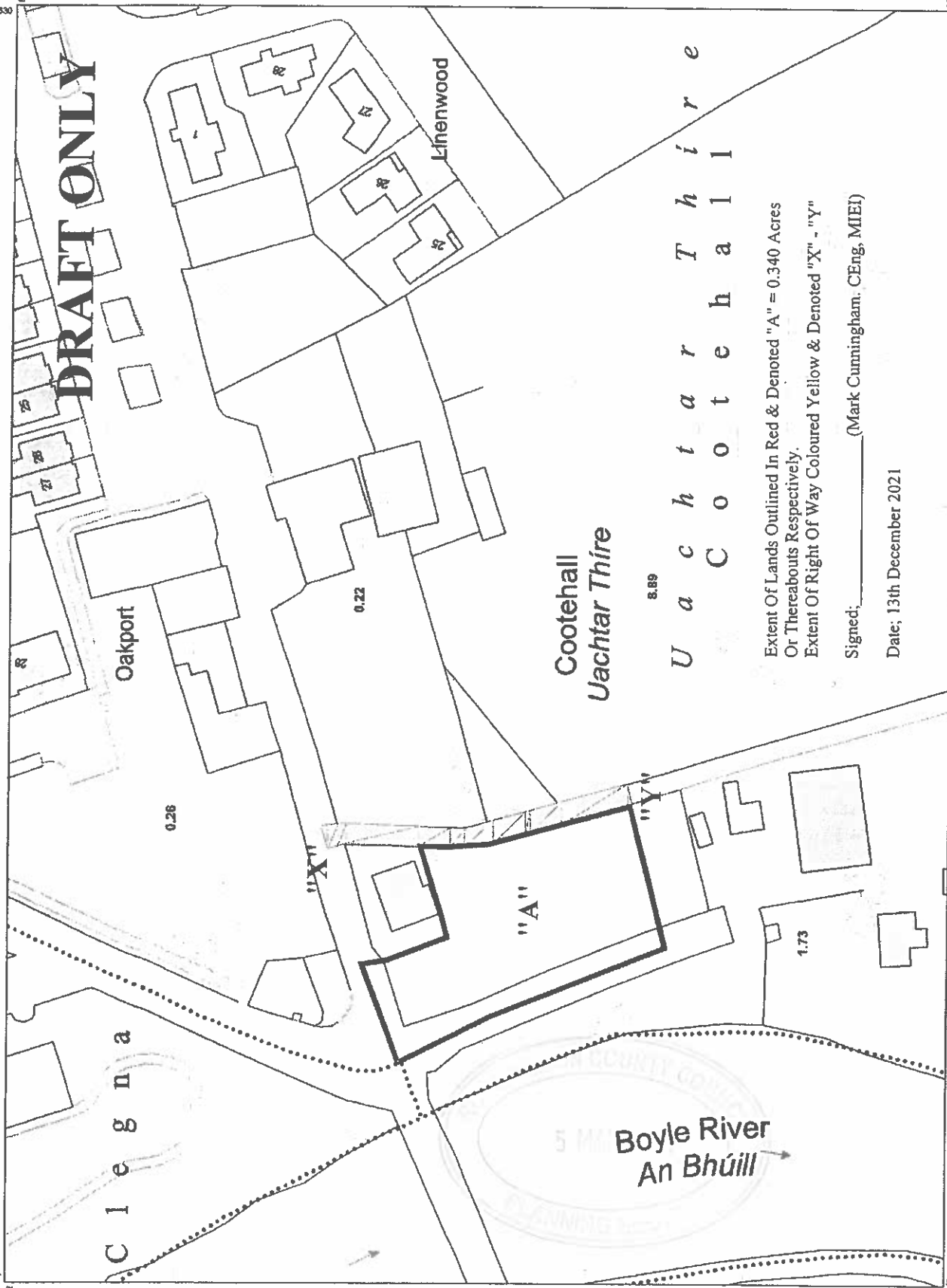
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<http://www.osi.ie>



Land Registry Compliant Map

DRAFT

Oakport

0.26

"X"

0.22

A

Linenwood

Cootehall
Uachtar
Thire

EXISTING
ROW TO
B? EXTINGUISHED

NEW RIGHT
OF WAY TO
B? CREATED

8.89

U a c h t a r T h i r e
C o o t e h a l l

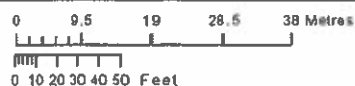
Extent Of Lands Outlined In Red & Denoted "A" = 1.128 Acres
Or Thereabouts Respectively.

Extent Of Right Of Way Coloured Yellow & Denoted "X" - "Y"

Signed: (Mark Cunningham, CEng, MIEI)

Date: 07th December 2021

DRAFT



OUTPUT SCALE: 1:1,000



CENTRE
COORDINATES:
ITM 589543,803603

PUBLISHED: 17/05/2018
MAP SERIES: 1:5,000
ORDER NO.: 50007949_1
MAP SHEETS: 1742

CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale.
Further information is available at:
<http://www.osi.ie>; search 'Capture Resolution'
LEGEND:
<http://www.osi.ie>; search 'Large Scale Legend'

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Phoenix Park, Dublin 8, Ireland.

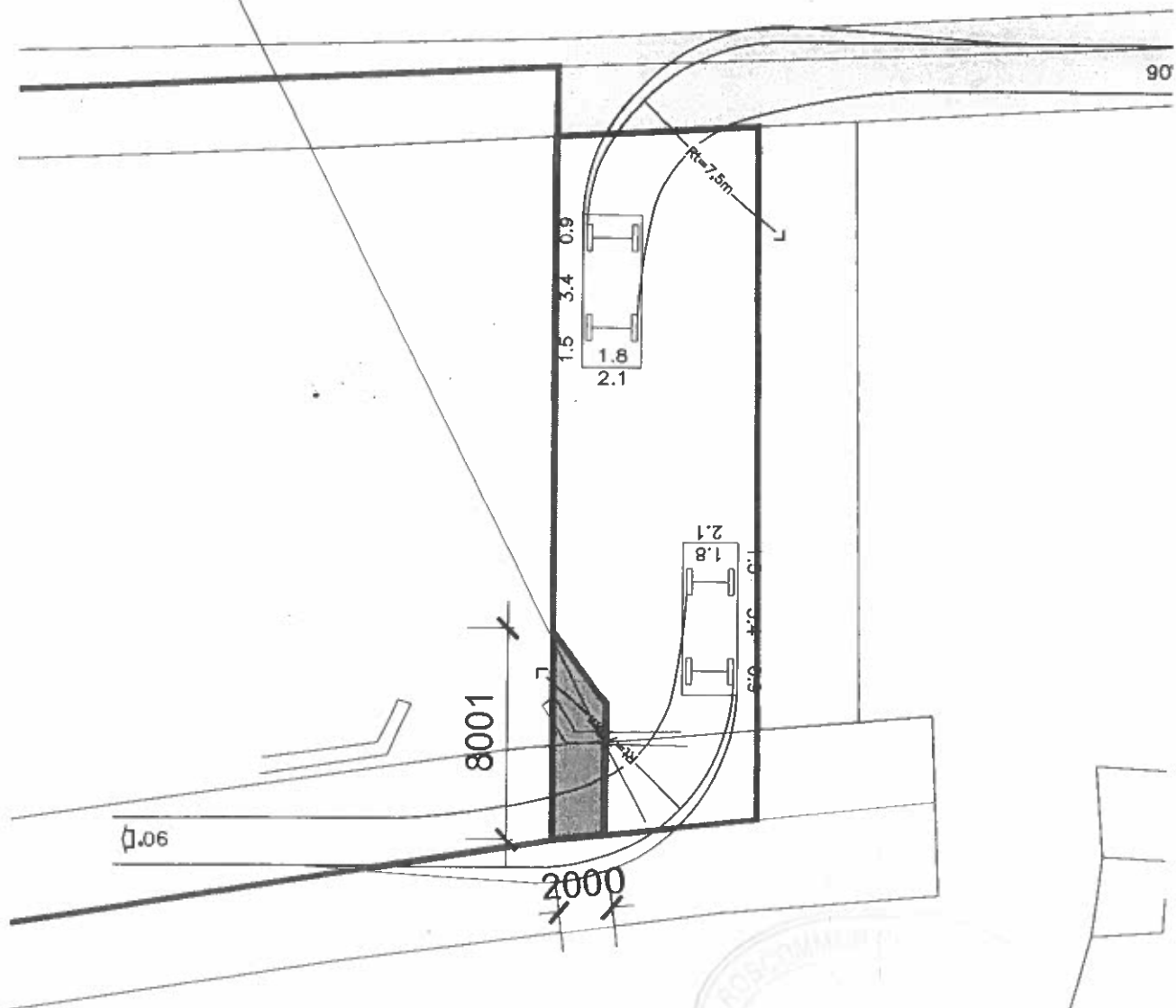
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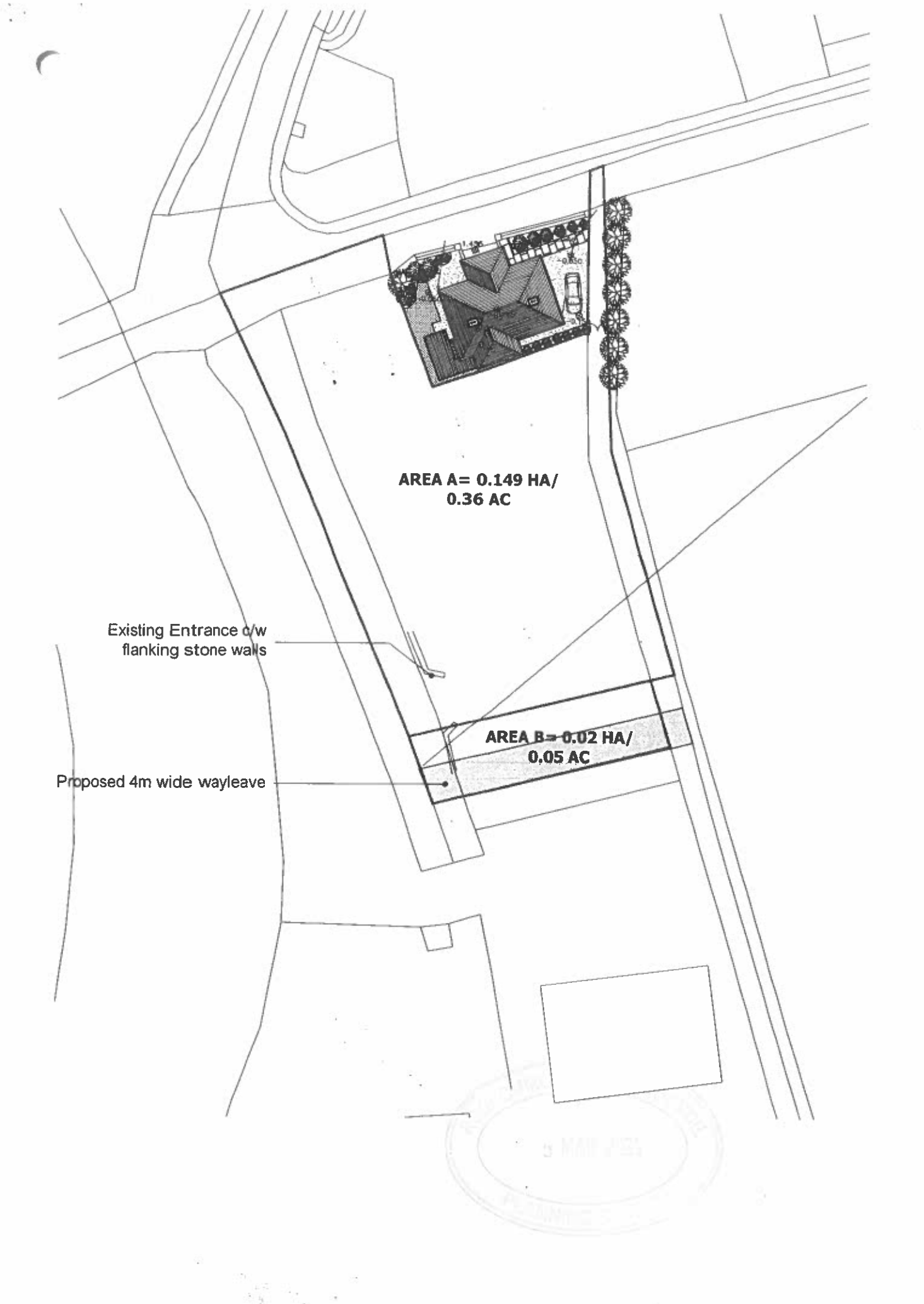
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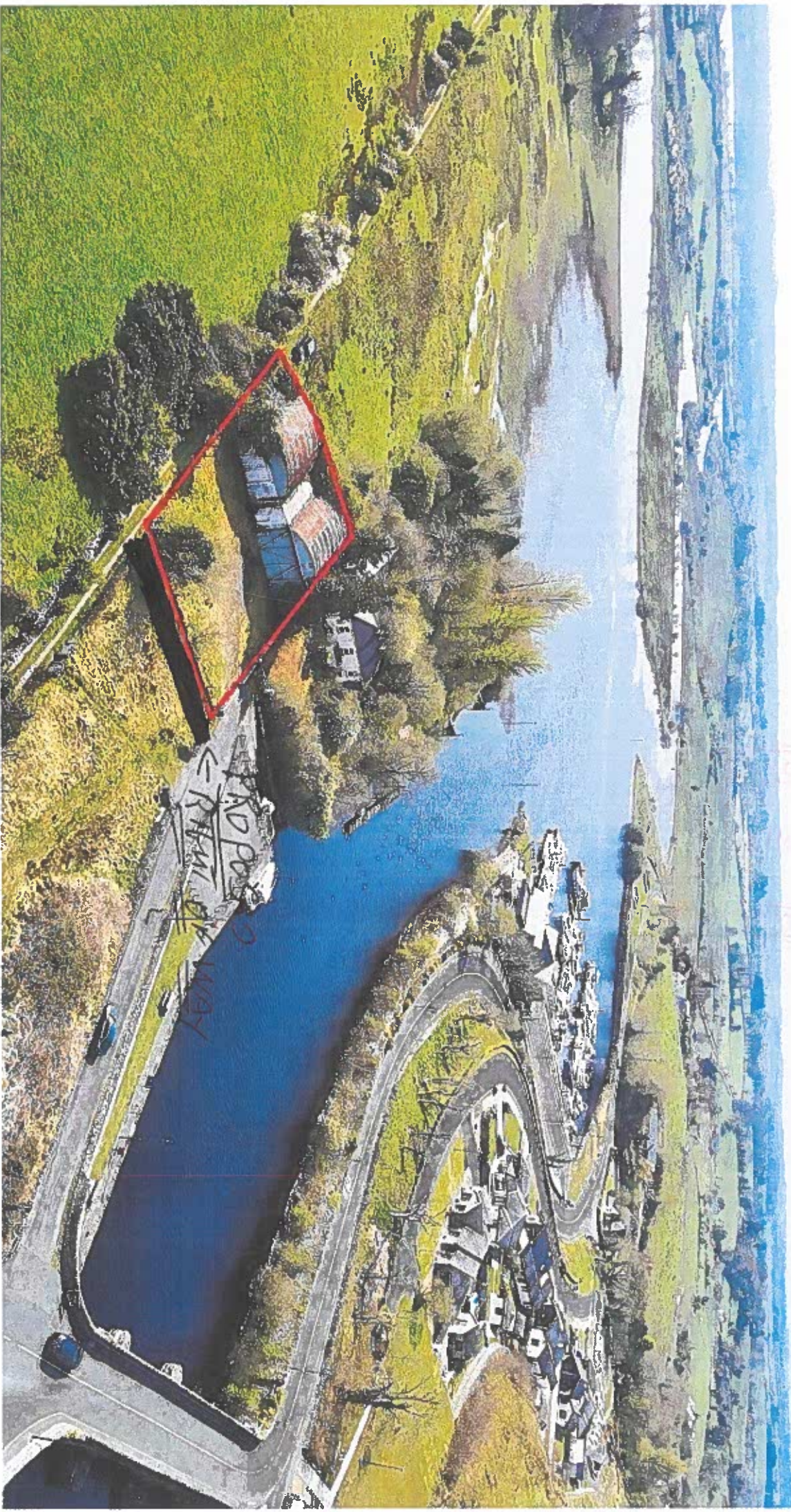
**AREA A= 0.149 HA/
0.36 AC**

Existing Entrance c/w
flanking stone walls

**AREA B= 0.02 HA/
0.05 AC**

Proposed 4m wide wayleave





COASTAL COMMUNITY COLLEGE
MAR 2021