

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

REGISTERED POST

Enda Dolan,



Reference Number: DED 719
Application Received: 11th June 2024
Name of Applicants: Enda Dolan
Agent: PJ Moran, Highfield, Four Roads, Roscommon.

WHEREAS a question has arisen as to whether the change of use of a building (subject to Planning Application PD/21/505) to an agricultural store for animal feed at Carrick Td, Curraghboy, 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 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 are development.
- (b) The said change of use of the building (subject of planning Application Register Reference PD/21/505/ABP-312079-21) for use as an agricultural store for animal feed is not exempted development in this 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 **change use of a building (subject to Planning Application PD/21/505) to an agricultural store for animal feed at Carrick Td, Curraghboy, 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: 1st July 2024

cc agent: PJ Moran, Highfield, Four Roads, Roscommon.

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

Reference Number: DED 719

Re: Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development to change the use of a building (subject of Planning Application PD/21/505) to agricultural store for animal feed under the Planning & Development Act (Exempt Development) Regulations 2018 at Carrick TD, Curraghboy, Co. Roscommon.

Applicants: Enda Dolan

Date: 1st July 2024 (Inspection 17th June 2024)

WHEREAS a question has arisen as whether to change the use of a building (subject of Planning Application PD/21/505) to agricultural store for animal feed at Carrick TD, Curraghboy 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, 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 Act, 2000, as amended
- (d) The planning history of the site

Site Location & Development Description

The subject site is located in the townland of at Carrick TD, Curraghboy, County Roscommon and the structure to which this request for an opinion relates appeared on site inspection to be unoccupied. The site is accessed via a network of private roads which ultimately access onto Regional Road R 362.

The proposed development consists of the use of a building which was the subject of planning application Planning Register Reference number PD/21/505 as an agricultural store for animal feed. The floor area of the structure is indicated as 95 sq.m The overall height is indicated as 6.15 metres and the external walls are indicated as comprising “timber effect cladding slats on 100mm x 44mm laths”.

Archaeological and Cultural Heritage

No RMP recorded in the likely zone of influence of the proposed development. No Protected structures or structures listed in the National Inventory of Architectural Heritage are within the likely zone of influence of the proposed development.

Appropriate Assessment

The closest European site to the site of the proposed development is Lough Fuinshinagh SAC (Site Code: 000611) which is located circa 0.38km to the northeast.

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 this or other European sites arising from the proposed development. The need for further Appropriate Assessment can therefore, be excluded.

Planning History

As per the Roscommon County Council's Planning Registry, the following planning History has been traced:

ABP- 312079-21 (PD 21 505):

Retention Permission/Permission refused on 29/05/2023 by An Bord Pleanála for retention of dwelling unit and Permission for construction of septic tank and percolation area for two reasons relating to insufficiency of evidence to demonstrate compliance with settlement policy criteria and design and assimilation.

Current Planning Enforcement Case UDR 2488:

UDR 2488: Unauthorised development consisting of the development of a house without the benefit of planning permission. This is a current planning enforcement case in relation to the structure which is the subject of this request for an opinion. The existing structure and use are therefore unauthorised.

Assessment

Provisions Concerning status as Development

In accordance with the Planning and Development Act, 2000, as amended Section 2. "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.

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".

It is considered that the stated change of use of the said structure which is the subject of Planning Register Reference PD/21/505 (Permission sought under this reference for retention of dwelling unit) to agricultural store for animal feed constitutes "works" and "Development" in accordance with Sections 2 and 3 of the Planning and Development Act 2000 (as amended).

Section 4 Provisions Concerning Agricultural Use

In view of the stated proposed use for agriculture regard has also been had to the provisions of Section 4 of the Planning and Development Act as follows:

4.—(1) The following shall be exempted developments for the purposes of this Act—

(a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

Given the nature of the development described under PD/21/505 there is no evidence to substantiate that the structure to which this request for an opinion relates has the status of a building occupied together with land so used, and the provisions of Articles 6, 9 and 10 are instead considered the relevant instruments.

Provisions Concerning Change of Use Status

In view of the nature of the development described regard has been had to the following provisions of the Planning and Development Regulations 2001 (as amended):

Article 10 (1)

Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

It is noted that dwelling unit is not a class of use listed in Part 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). As the change of use referenced in documents received relates to change from residential (dwelling unit) to agricultural, the normal provisions concerning exempted development do not extend to changes of use from residential to any other use class and such development would as a consequence (and by exclusion) appear to be development which is not exempted development.

It is further noted that were the change of use described within a class listed in Part 4 of Schedule 2, the provisions of Article 10 (1) (d) above would be relevant.

Article 9 Restrictions on Exemption

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 development would:*

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use

Article 9 (1) (viii) Restrictions on Exemption

With Regard to Article 9 (1)(a) of the Planning and Development Regulations (reproduced above), it is reasonable to conclude that on the basis of the information available that were the development described exempt development, the restriction on exemption under Article 9 (1) (viii) would apply restricting said exemption in view of the planning and planning enforcement history of the site including Planning Register Reference Number PD/21/505 and in particular ongoing unauthorised development enforcement investigation UDR 2488.

Article 9 (1) (a) (viiB)

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 Article 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 to change of use of the building (subject of planning Application Register Reference PD/21/505/ABP-312079-21) for use as an agricultural store for animal feed at Carrick, Curraghboy, County 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 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

- (a) The works are development.
- (b) The said change of use of the building (subject of planning Application Register Reference PD/21/505/ABP-312079-21) for use as an agricultural store for animal feed is not exempted development in this case.

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



Signed:

Senior Executive Planner

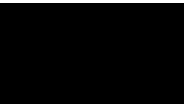
Date: 1st July 2024



Comhairle Contae
Ros Comáin
Roscommon
County Council



Enda Dolan,



Date: 11th June 2024
Planning Reference: DED 719

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.
Development: Permission for change of use of building (subject of Planning Application PD/21/505) as an agricultural store for animal feed under the Planning & Development Act (Exempt Development) Regulations 2018 at Carrick TD, Curraghboy, Co. Roscommon.

A Chara,

I wish to acknowledge receipt of your application which was received on the 4th June 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. **L01/0/228927** dated 6th June 2024, receipt enclosed herewith.

Please note that due to current resourcing issues, the processing of the Declaration of Exempted Developments has been curtailed at present and applicants will experience delays in the processing of same. We are currently reviewing internal work programmes with a view to resuming normal services as soon as possible, however we cannot provide a timeframe at present.

We sincerely apologise for any inconvenience caused.

Note: Please note your Planning Reference No. is **DED 719**.
This should be quoted in all correspondence and telephone queries.

Mise le meas,

Alan O'Connell,
Senior Executive Planner,
Planning Department.

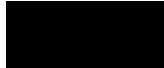
Cc agent: PJ Moran,
Highfield,
Four Roads,
Roscommon.

Roscommon County Council
Aras an Chontae
Roscommon
09066 37100

06/06/2024 12:16:07

Receipt No : L01/0/22B927

ENDA DOLAN



PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED 719	

Total	80.00 EUR
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Tendered	
Cheque	80.00
501190	

Change	0.00
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Issued By : Bernadine Duignan
From : Central Cash Office



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:	ENNA DOWAN
Address:	[REDACTED]
Name & Address of Agent:	P. J. MURPHY MILKFIELD FARM ROADS ROSCOMMON
Nature of Proposed Works	USE OF BUILDING (SUBJECT OF PLANNING APPLICATION DO/01/505) AS AN AGRICULTURAL STORE FOR ANIMAL FEED ON MY FARM.
Location (Townland & O.S No.)	CARLICK Td. O.S. 2894
Floor Area	95
Height above ground level	
Total area of private open space remaining after completion of this development	NOT APPLICABLE
Roofing Material (Slates, Tiles, other) (Specify)	SLATES
Proposed external walling (plaster, stonework, brick or other finish, giving colour)	TIMBER SHEETING TO ALL WALLS SLATE GRAY IN COLOUR
Is proposed works located at front/rear/side of existing house.	NOT APPLICABLE





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	YES
If yes give ref. number (include full details of existing extension, if any)	21 / 505
Existing use of land or structure	AGRICULTURAL
Proposed use of land or structure	AGRICULTURAL
Distance of proposed building line from edge of roadway	NOT APPLICABLE
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:

R. Johnston M.P. Eamon DOWAN

Date:

4 / 06 / 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



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National Mapping Agency

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COORDINATES:
ITM 592785,749283

PUBLISHED:
04/09/2021

ORDER NO.:
50217655_1

MAP SERIES:
1:5,000

MAP SHEETS:
2894

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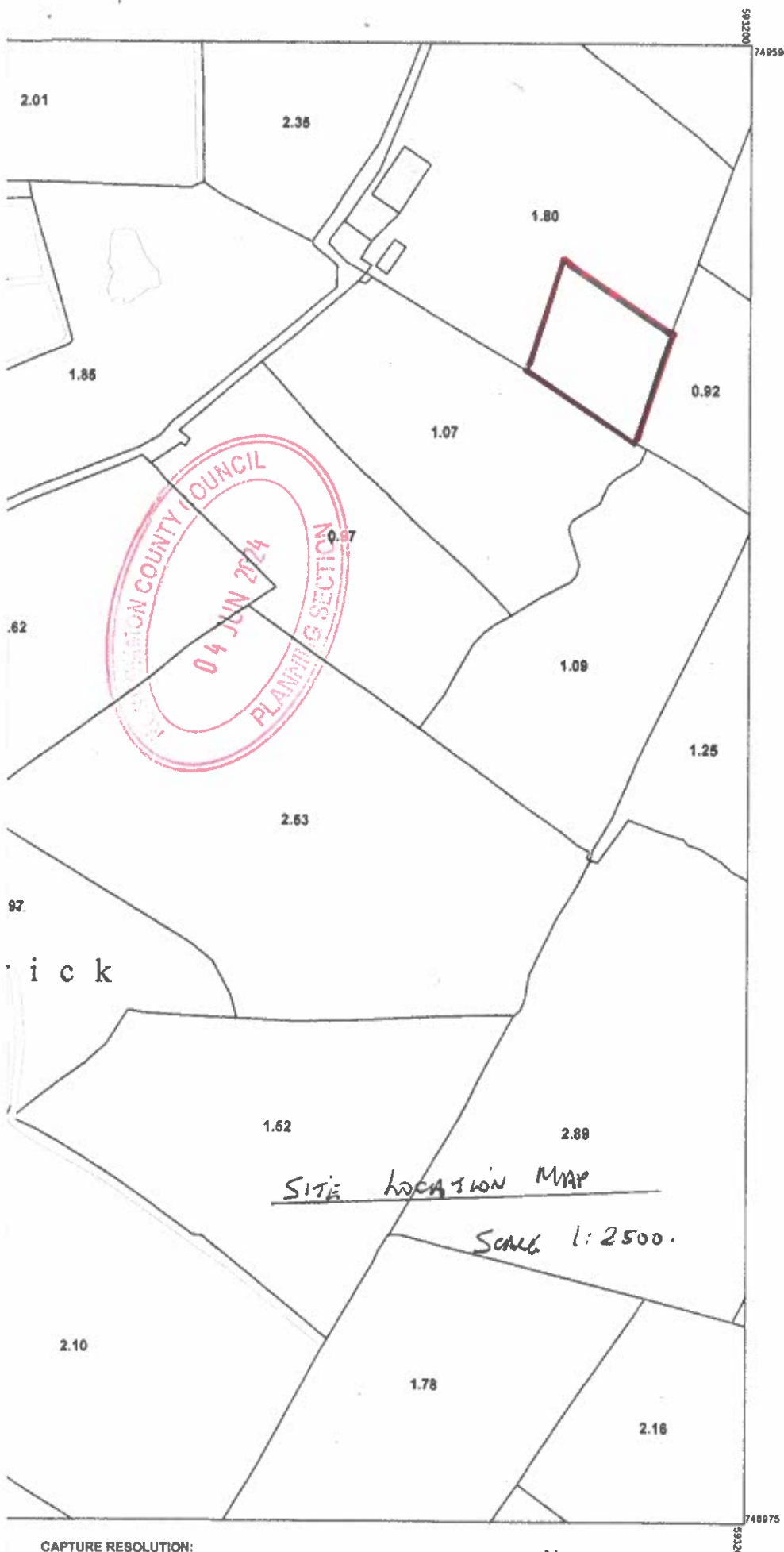
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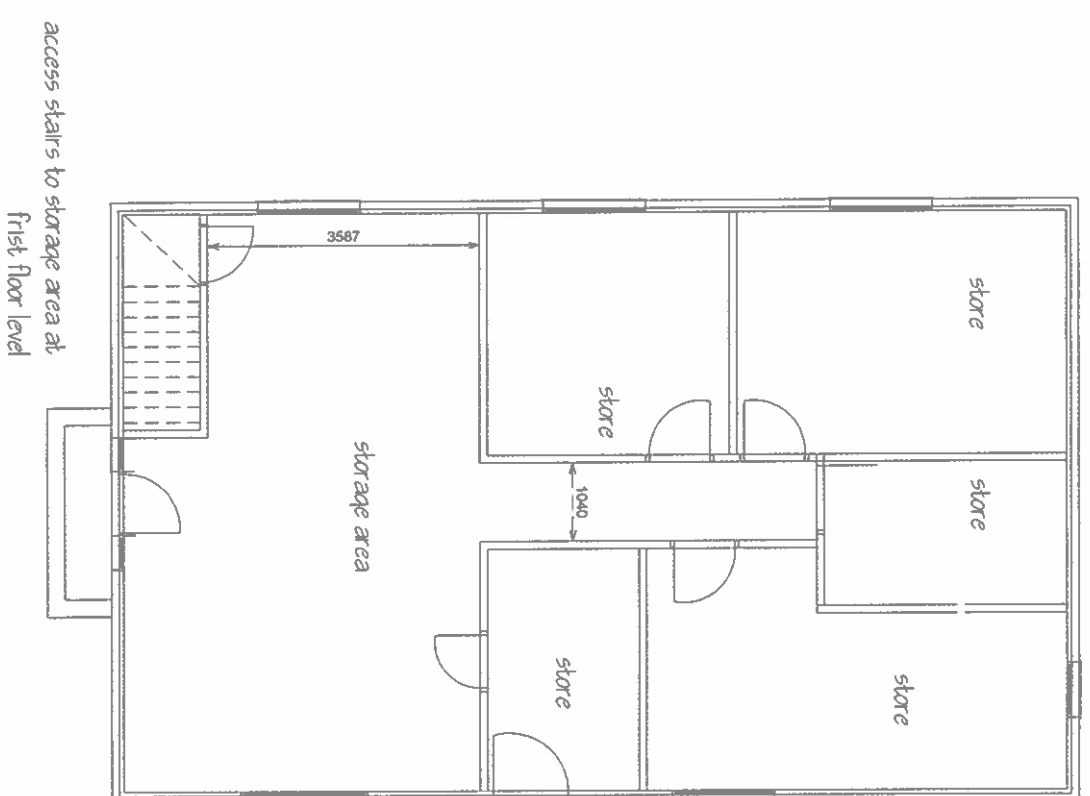


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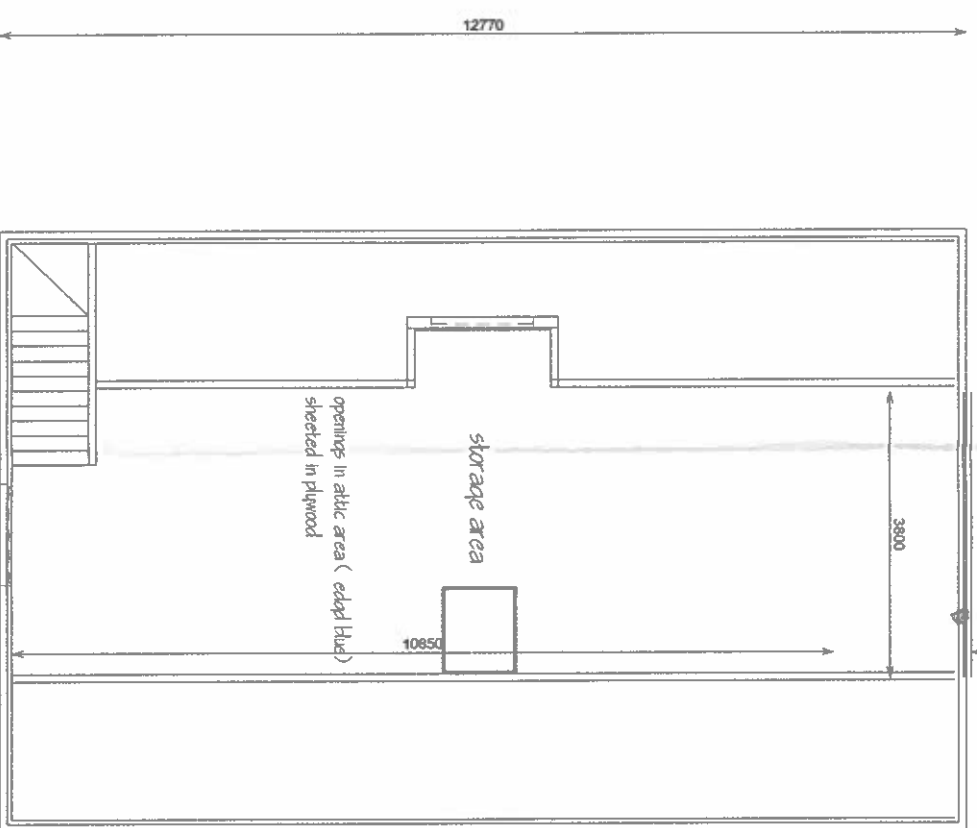


access stairs to storage area at first floor level

floor area ground floor 95 sq m

floor plan

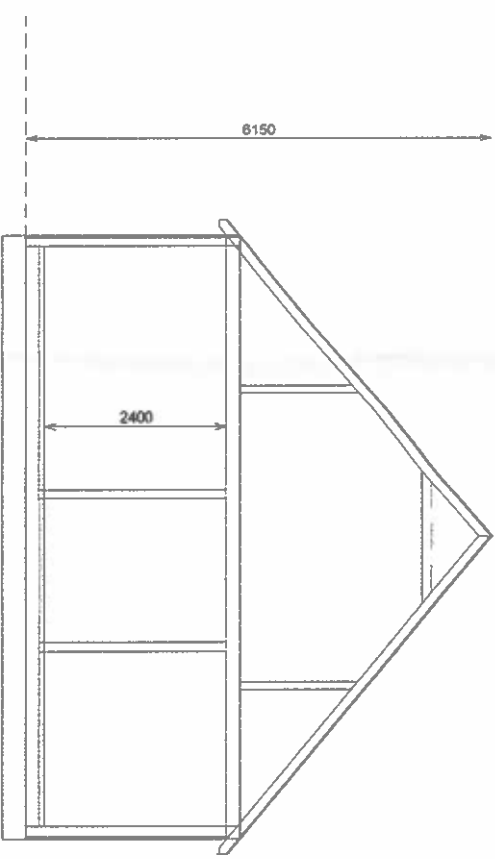
profile of external walls and cladding to dwelling unit



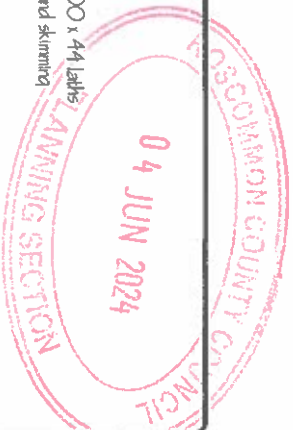
attic detail

external walls comprise timber effect cladding slats on 100 x 44 laths wall panels with external sheathing and internal slabbing and skimming internal partition in timber studs, slatted and skinned

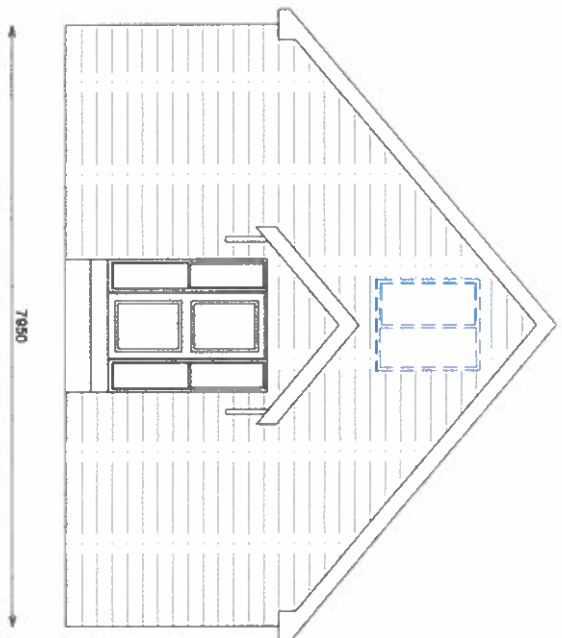
roof profile in section, showing outline of the roof pitched at 40° rafters at 150 x 44 section purlins at 225 x 75 section in C16 grade 100 x 75 timber struts taken down to internal support walls to provide intermediate support for timber purlins 100 x 44 header and struts to be placed above ceiling joists at first floor level as shown



section detail

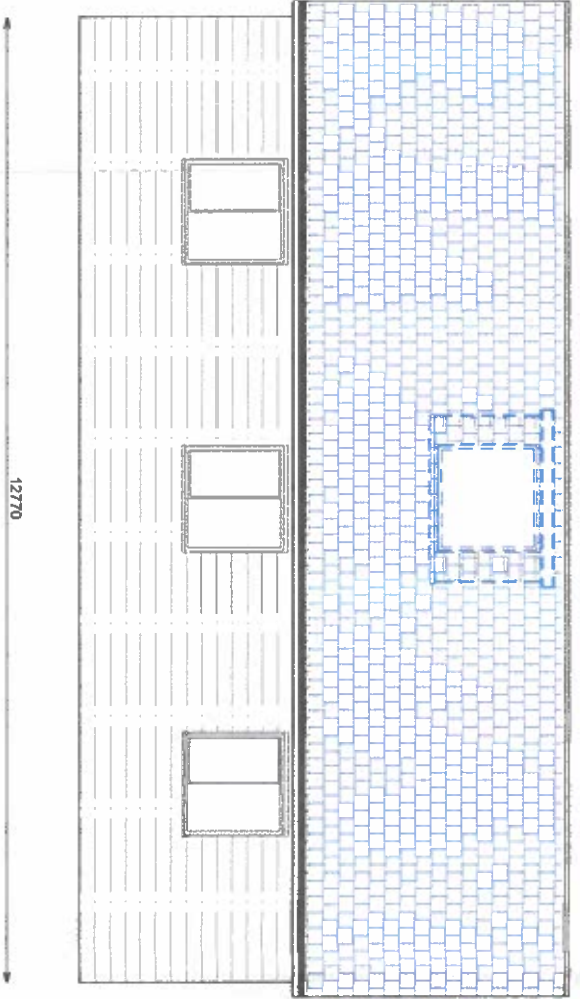


P.J.Moran, B.E., C.Eng., M.I.E.I. Chartered Civil Engineer	
Highfield, Four Roads, Co. Roscommon	
Proposed	agricultural store
At:	Carra, Curraghboy
Client:	Enda Dolan
scale: 1:100	dwg no J/2837/1 R



front elevation

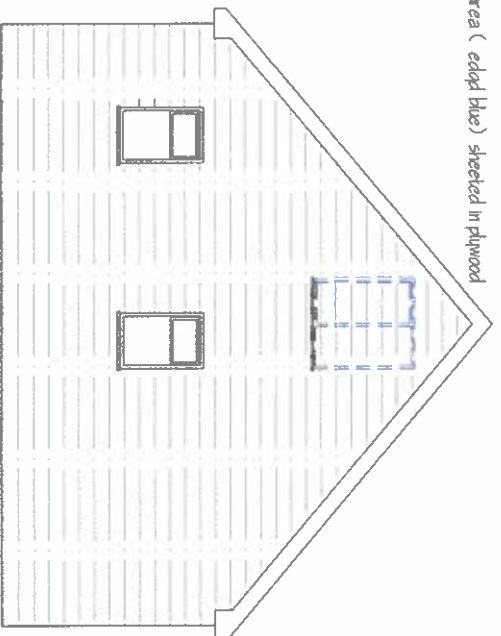
6473



side elevation

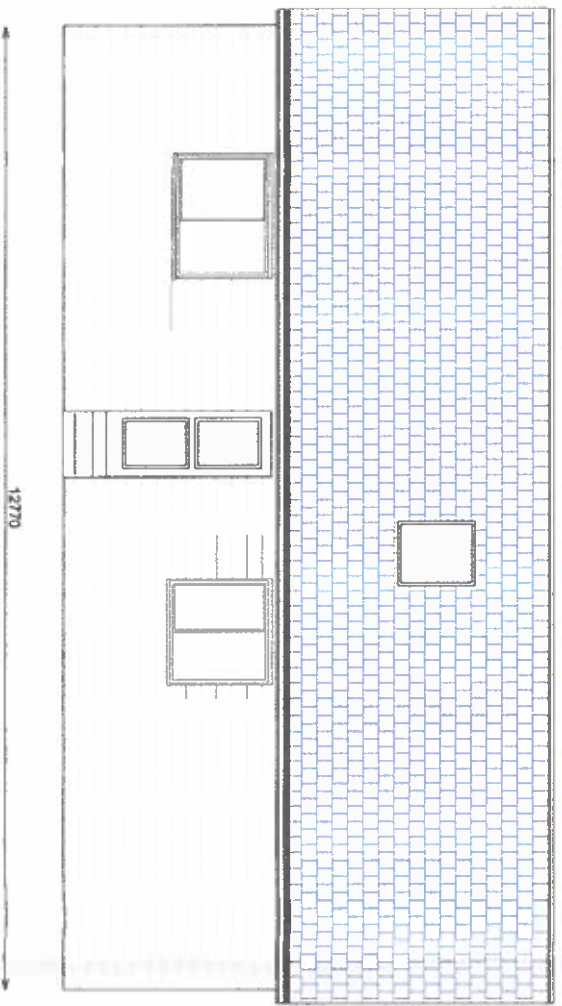
12770

all external wall facades of building clad in timber effect sheeting, slate grey in colour



rear elevation

7050



side elevation

12770

P.J.Moran, B.E., C.Eng., M.I.E.I. Chartered Civil Engineer	
Highfield, Four Roads, Co. Roscommon	
Proposed	agricultural store
At:	Carrick, Curnagboy
Client:	Enda Dolan
scale: 1:100	dwg no J/2637/2 R:



post and wire fencing extending through field

access avenue

access roadway

All mature trees along southern western boundary of site and along rear site boundary to south east of site to be retained and augmented

boundaries of site are shown edge in red line

Site layout Plan
scale 1 : 500

