

ROSCOMMON COUNTY COUNCIL

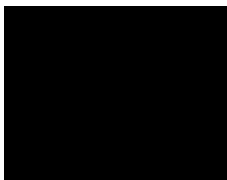
PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

REGISTERED POST

Gabriel Fleming,



Reference Number: DED 831
Application Received: 17th January, 2025
Name of Applicant: Gabriel Fleming
Agent: N/A

WHEREAS a question has arisen as to whether the erection of a cattle pen & crush together with a covered area for sick animals at Toberory, Ballinagare, Castlerea, Co. Roscommon, F45 K263, 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 6 of Part 3 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 proposed development individually and in combination with other plans or projects would likely to have an adverse impact on an area designated as a archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994 and therefore is not an exempted development.

NOW THEREFORE:

By virtue of the powers vested in me by the Local Government Acts 1925 – 2024 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 erect a cattle pen & crush together with a covered area for sick animals at Toberory, Ballinagare, Castlerea, Co. Roscommon, F45 K263, 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: 12th February, 2025

ADVICE NOTE

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.

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

Reference Number: DED 831

Re: Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development to erect a cattle pen & crush together with a covered area for sick animals under the Planning & Development Act (Exempt Development) Regulations 2018 at Toberory, Ballinagare, Castlerea, Co. Roscommon. (F45 K263)

Applicants: Gabriel Fleming

Date: 12th February 2025 (Site Inspection on 10/02/2025)

WHEREAS a question has arisen as to whether to erect a cattle pen & crush together with a covered area for sick animals in Toberory, Ballinagare, Castlerea, 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) Class 6 of Part 3 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 Toberory, Ballinagare, Castlerea, Co. Roscommon and the land is in agricultural use. The site is accessed via the L-6025 road and is a field currently with no nearby structures. It is proposed to construct a structure which is partly roofed and consists of an area to house animals, a cattle pen and cattle crush. The overall area of the structure is stated at 352sq feet (approx. 33m²).

Archaeological and Cultural Heritage

The proposed development is located in the likely zone of influence (R163623) of an enclosure (Entity ID: RO02370), Field system (Entity ID: RO02374). No Protected structures or structures listed in the National Inventory of Architectural Heritage the likely zone of influence of the proposed development.

Appropriate Assessment

The closest European site to the site of the proposed development is Mullygollan Turlough PNHA/SAC (Site Code 000612) which is located circa 4.9 km to the south of the proposed 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, be excluded.

Planning History

As per the Roscommon County Council's Planning Registry, no recent planning history has been traced relating to the subject site.

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

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments

(Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

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 to construct an agricultural development constitutes development, as defined in Section 3 of the said Act.

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. However, the restrictions on exemption Art 9 (1)(a) (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended, and therefore not an exempted development.

Recommendation

WHEREAS a question has arisen as to whether to erect a cattle pen & crush together with a covered area for sick animals in Toberory, Ballinagare, Castlerea, 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) Class 6 of Part 3 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 proposed development individually and in combination with other plans or projects would likely to have an adverse impact on an area designated as a archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994 and therefore is not an exempted development.

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

Signed: 
Civil Technician

Date: 12th February 2025

Signed: 
Senior Executive Planner

Date: 12th February 2025





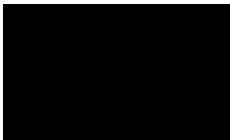




Comhairle Contae
Ros Comáin
Roscommon
County Council



Gabriel Fleming,



Date: 21th January 2025

Planning Reference: DED 831

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

Development: Permission to erect a cattle pen & crush together with a covered area for sick animals under the Planning & Development Act (Exempt Development) Regulations 2018 at Toberory, Ballinagare, Castlerea, Co. Roscommon, F45 K263.

A Chara,

I wish to acknowledge receipt of your application which was received on the 17th January 2025, 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. L01/0/232546 dated 17th January 2025, receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 831**
This should be quoted in all correspondence and telephone queries.

Mise le meas,

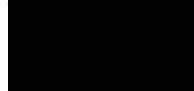
Alan O'Connell
Senior Executive Planner
Planning Department.

Roscommon County Council
Aras an Chontae
Roscommon
09086 37100

17/01/2025 12:18:20

Receipt No. : L01/0/232546
***** REPRINT *****

GABRIEL FLEMING



PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED 831	

Total : 80.00 EUR

Tendered :
Credit/Debit Card 80.00
1033

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

17 JAN 2025

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

Name of Applicant(s)	GABRIEL FLEMING
Name of Agent	N/A
Nature of Proposed Works	ERECTION OF CATTLE PEN & CROSH, ALSO TO INCLUDE COVERED AREA FOR A SILK ANIMAL
Location & Address of Subject Property to include, Eircode (where applicable), Townland & O.S No.	TOBERORY, BALLINAGARE, CASTLEREA, CO. ROSCOMMON EIRCODE F45 K263
Floor Area: a) Existing Structure b) Proposed Structure	a) _____ b) <u>352 sq. ft.</u>
Height above ground level:	10 FT.
Total area of private open space remaining after completion of this development	N/A
Roofing Material (Slates, Tiles, other) (Specify)	BOX PROFILE CLADDING

Roscommon County Council

Application for a Declaration under Section 5 of the

Proposed external walling (plaster, stonework, brick or other finish, giving colour)	PLASTER
Is proposed works located at front/rear/side of existing house.	NOT NEAR ANY HOUSE
Has an application been made previously for this site	NO
If yes give ref. number (include full details of existing extension, if any)	—
Existing use of land or structure	FARMING
Proposed use of land or structure	CATTLE PEN + CRUSH
Distance of proposed building line from edge of roadway	10 METRES
Does the proposed development involve the provision of a piped water supply	PIPED WATER ALREADY ON LAND
Does the proposed development involve the provision of sanitary facilities	NO

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

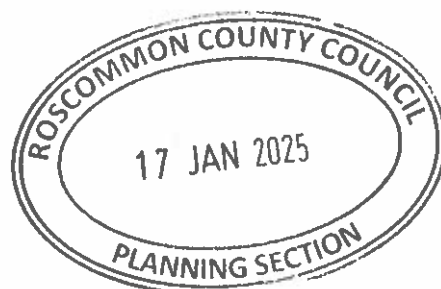
Signature:

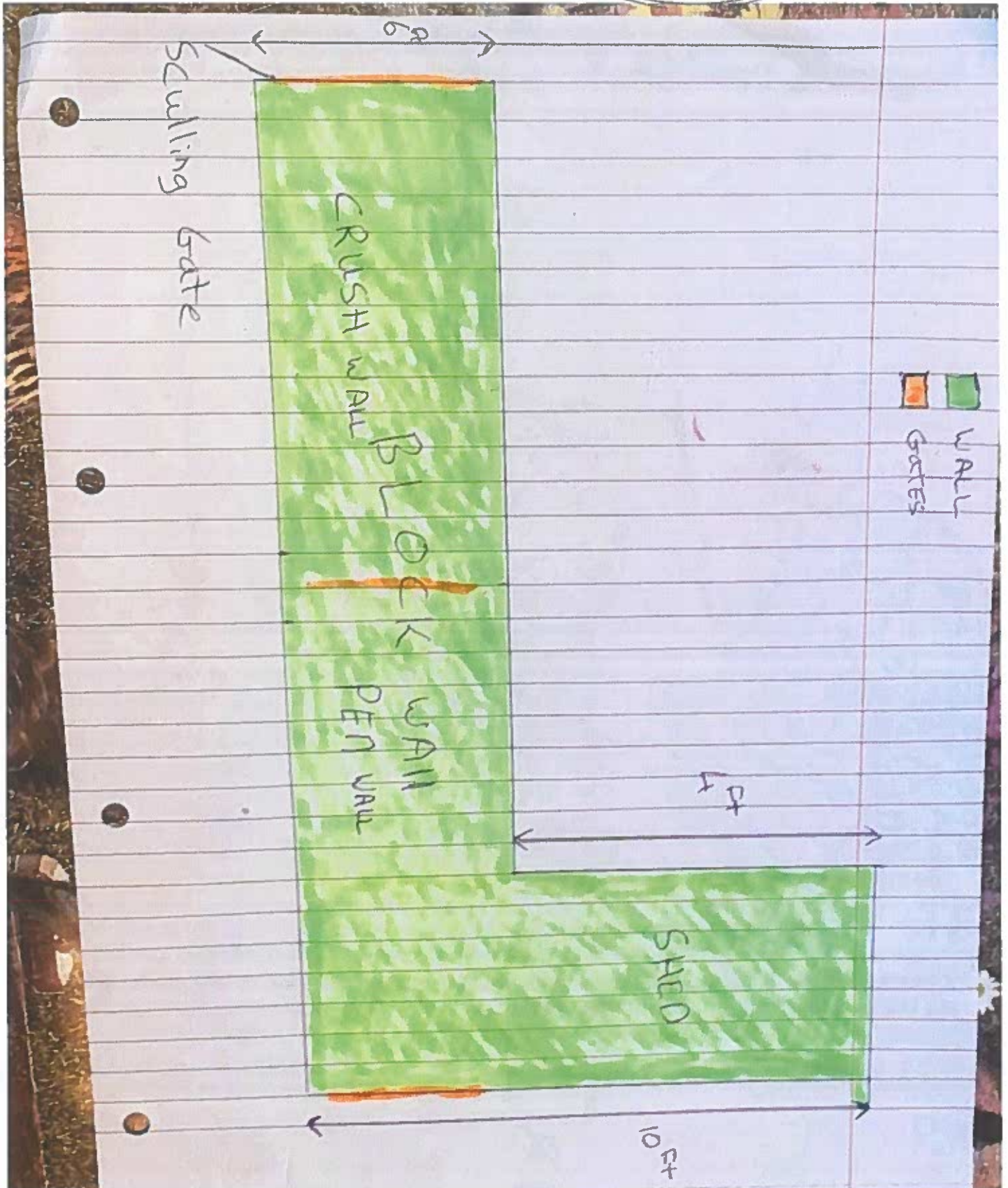
Gabriel Fleming
9/1/2025

Date:

Note: This application must be accompanied by: -

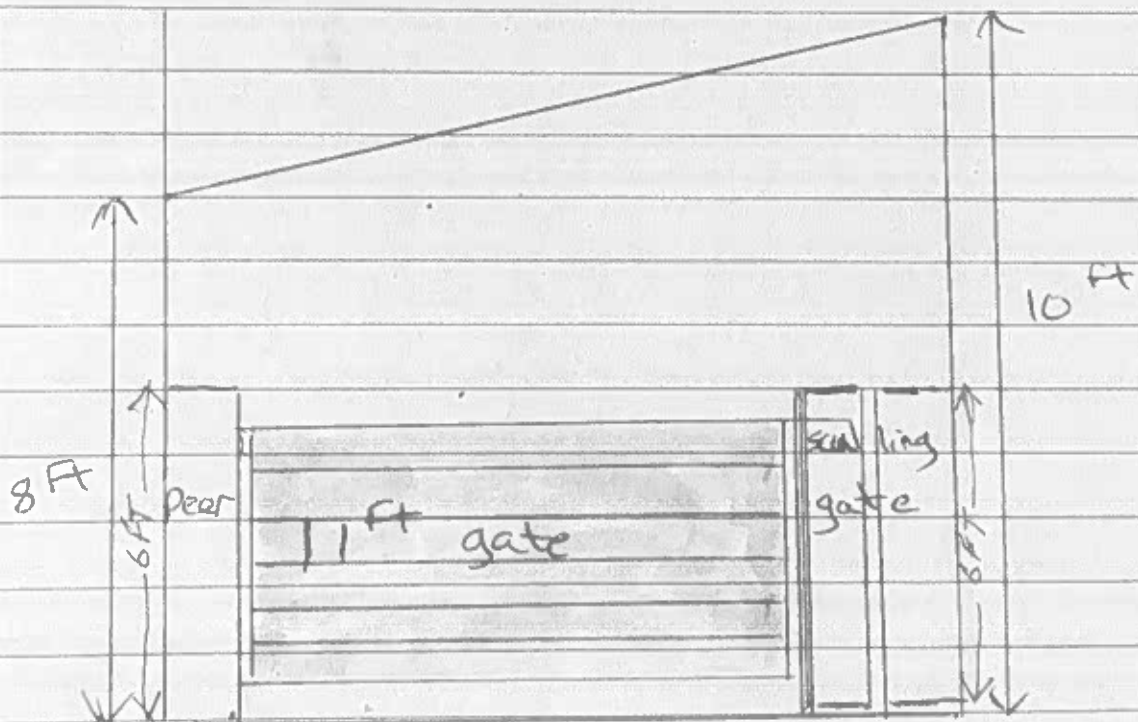
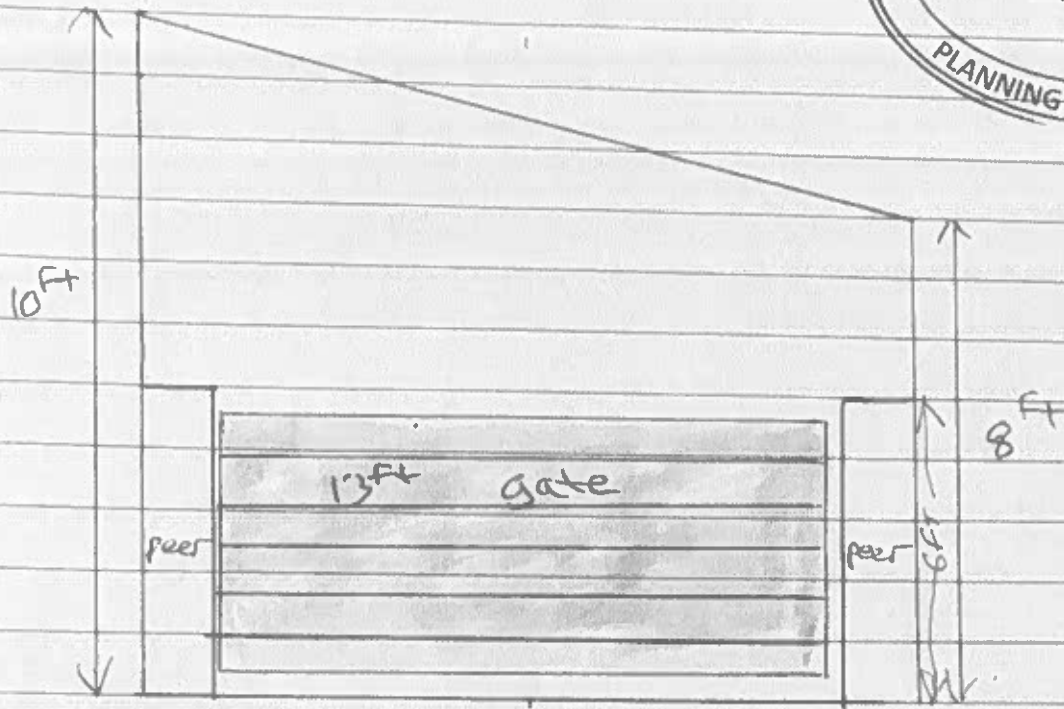
- (a) €80 fee
- (b) Site Location map to a scale of 1:2500 clearly identifying the location
- (c) Site Layout plan to the scale of 1:500 indicating exact location of proposed development
- (d) Detailed specification of development proposed








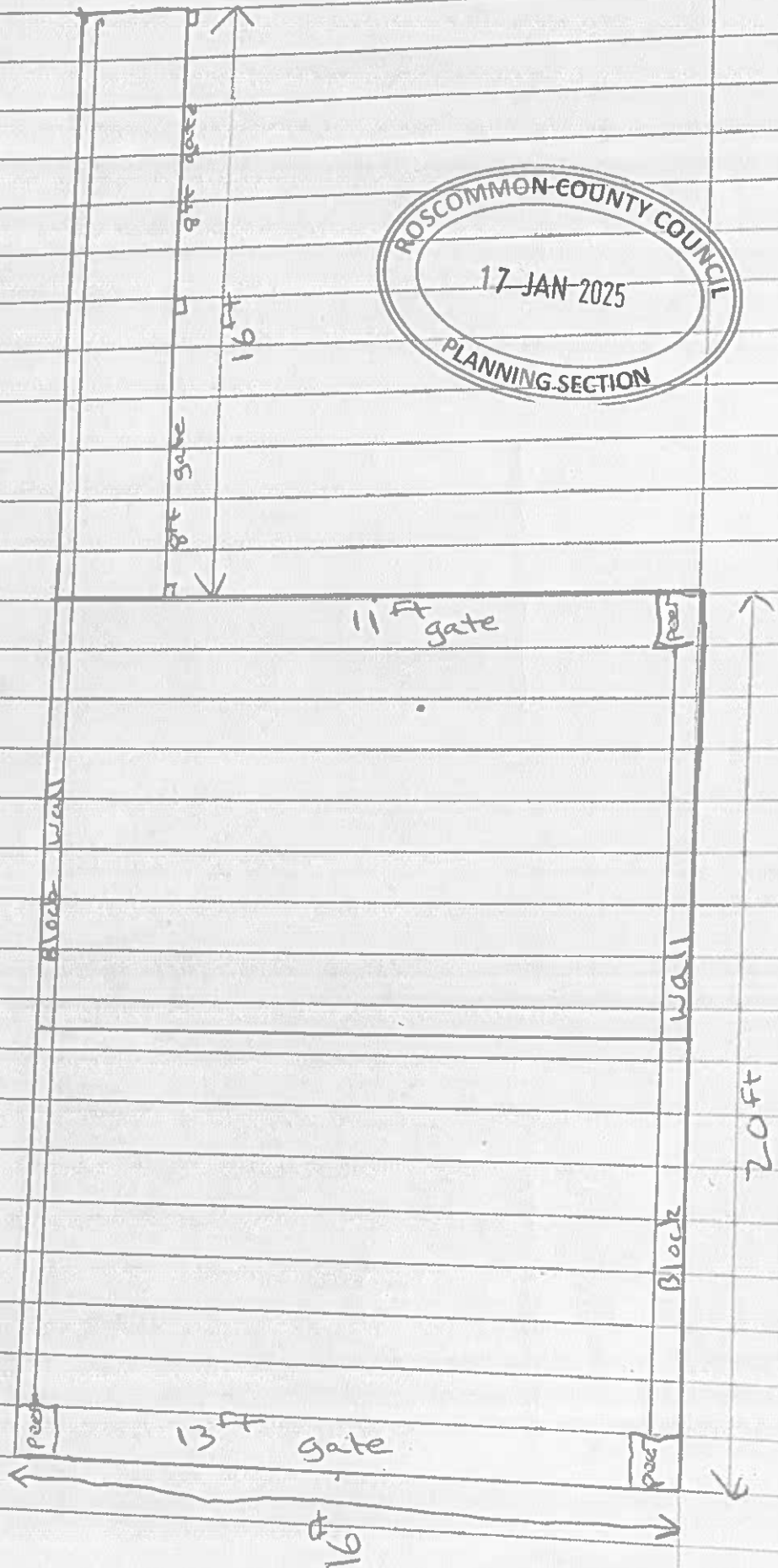
gates

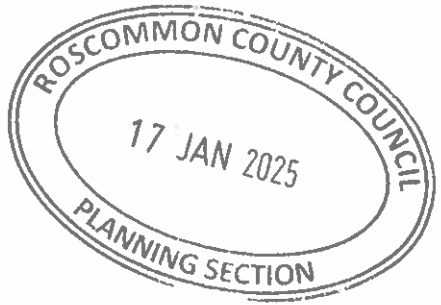


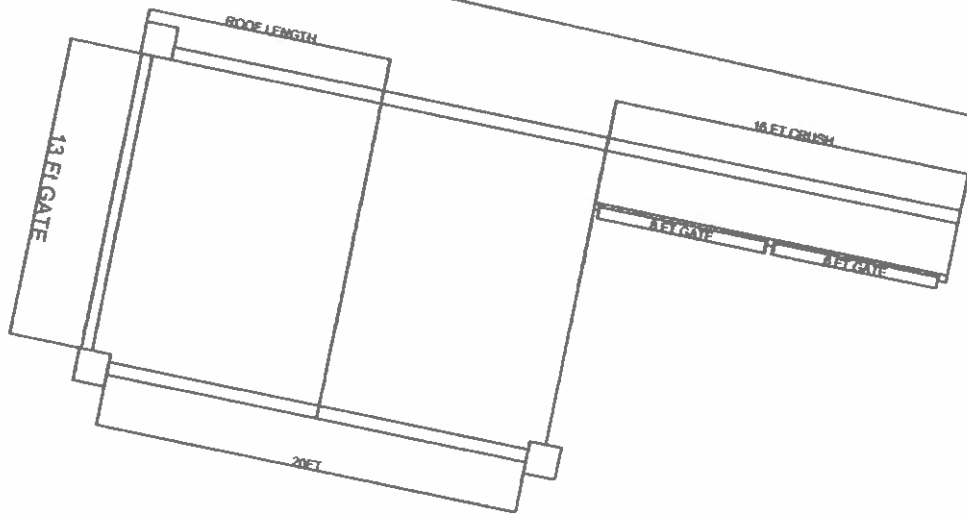
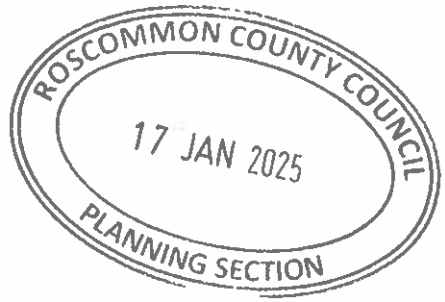


Box Profile sheeting
for roof 

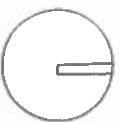
half of pen
roofed







SCALE 1:100



The Property
Registration Authority

An tÚdarás
Clárúcháin Maoine

Folio: RN21115

This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.pra.ie.

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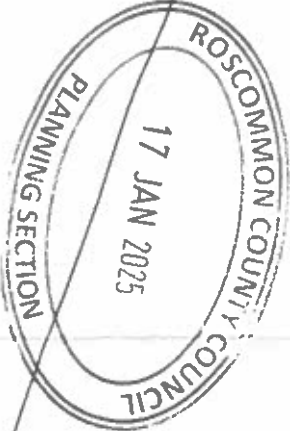
- (centre-line of parcel(s) edged)
- Freehold
 - Leasehold
 - Subleasehold
- Burdens (may not all be represented on map)
- Right of Way / Wayleave
 - Turbary
 - Pipeline
 - Well
 - Pump
 - Septic Tank
 - Soak Pit



A full list of burdens and their symbology can be found at: www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.

1:2500 Scale



CW

Quarry

8

10

Courtmoyle