

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 864
Application Received: 19th March, 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, 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 outlined above are development.
- (b) The construction of a cattle pen & crush together with a covered area as described in this case is an exempted development.
- (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 – 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, 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:

Brian Farragher,
Senior Executive Planner,
Planning.

Date: 8th April, 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 864

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: 7th April 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 next to but not 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, recent planning history has been traced relating to the subject site.

- DED 831 - Erection of cattle pen crush, also to include covered area for a sick animals - Not Exempted

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.

The proposed shed (33m² stated):

The construction of a cattle pen & crush together with a covered area appears to come within the scope of Class 6 of Part 3 of Article 6 - *Exempted Development Rural* of the Regulations.

PART 3 - Article 6 - Exempted Development - Rural

Column 1 - Description of Development

Agricultural Structures

Agricultural Structures
CLASS 6

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

1. No such structure shall be used for any purpose other than the purpose of agriculture.
2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
5. No such structure within 100 metres of any public road shall exceed 8 metres in height.
6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

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 the compliance with the conditions and limitations of Class 6 of Part 3 of Schedule 2 (Exempted Development - Rural) the following assessment sets out how these apply to the current proposal:

1. As per the submitted details the proposed use is the housing of cattle.
2. The gross floor space of the structure together with any other such structures situated within 100 metres will not exceed 300 square metres gross floor space in aggregate. No other structures on the land.
3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution. Onus on applicant to comply with this.
4. The structure is stated to be situated 10m from the public road.
5. The proposed structure does not exceed 8 metres in height.
6. Based on information provided and site inspection there are no buildings within 100m of the proposed structure.
7. Based on information provided, the structure is clad.

Having reviewed the proposed works in the context of the Conditions and Limitations associated with Class 6 of Part 3 Article 6 Schedule 2 of the Planning and Development Regulations, 2001, as amended, the construction of a cattle pen & crush together with a covered area as described in this case is considered to be an exempted development.

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 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 construction of a cattle pen & crush together with a covered area as described in this case is an exempted development.
- 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: 7th April 2025

Signed: 
Senior Executive Planner

Date: 7th April 2025



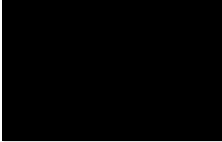




Comhairle Contae
Ros Comáin
Roscommon
County Council



Gabriel Fleming,



Date: 25th March, 2025

Planning Reference: DED 864

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

Development: Permission for the erection of cattle pen & crush to include cover 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 the application which was received on the 19th March, 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. **L/01/0/233728** dated 19th March, 2025, receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 864**
This should be quoted in all correspondence and telephone queries.

Mise le meas,

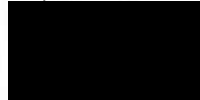
Alan O'Connell,
A/Senior Planner,
Planning Department.

Roscommon County Council
Aras an Chontae
Roscommon
09086 37100

19/03/2025 14:34:34

Receipt No : L01/01/233728

GABRIEL FLEMING



PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED864	

Total : 80.00 EUR

Tendered .
Credit/Debit Card 80.00
1033

Change : 0.00

Issued By : Louis Carroll
From : Central Cash Office



Comhairle Contae
Ros Comáin
Roscommon
County Council



DED 864.

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)	GABRIEL FLEMING
Name of Agent	N/A
Nature of Proposed Works	ERECTION OF CATTLE PEN & CRUSH, TO INCLUDE COVERED AREA, FOR A SICK ANIMAL.
Location & Address of Subject Property to include, Eircode (where applicable), Townland & O.S No.	TOBERORY, BALLINAGARE, CASTLE REA, CO. ROSCOMMON, EIRCODE F45 K 263
Floor Area: a) Existing Structure b) Proposed Structure	a) N/A b) 352 SQ. FT.
Height above ground level:	10 FEET
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)	N/A
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 SUPPLY ALREADY ON LAND.
Does the proposed development involve the provision of sanitary facilities	NO.

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

Signature:

Galvin Fleming
19/3/2025

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

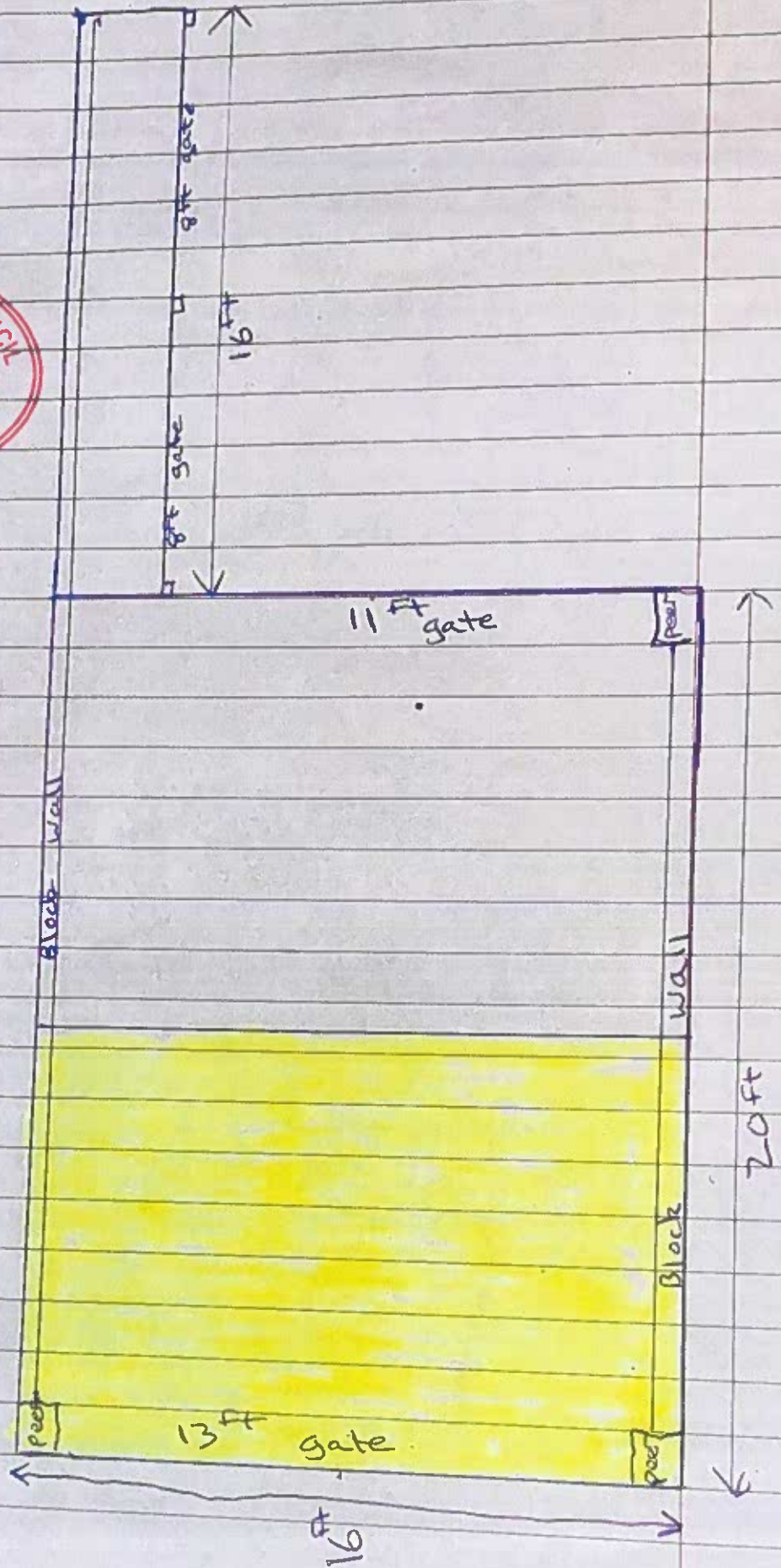




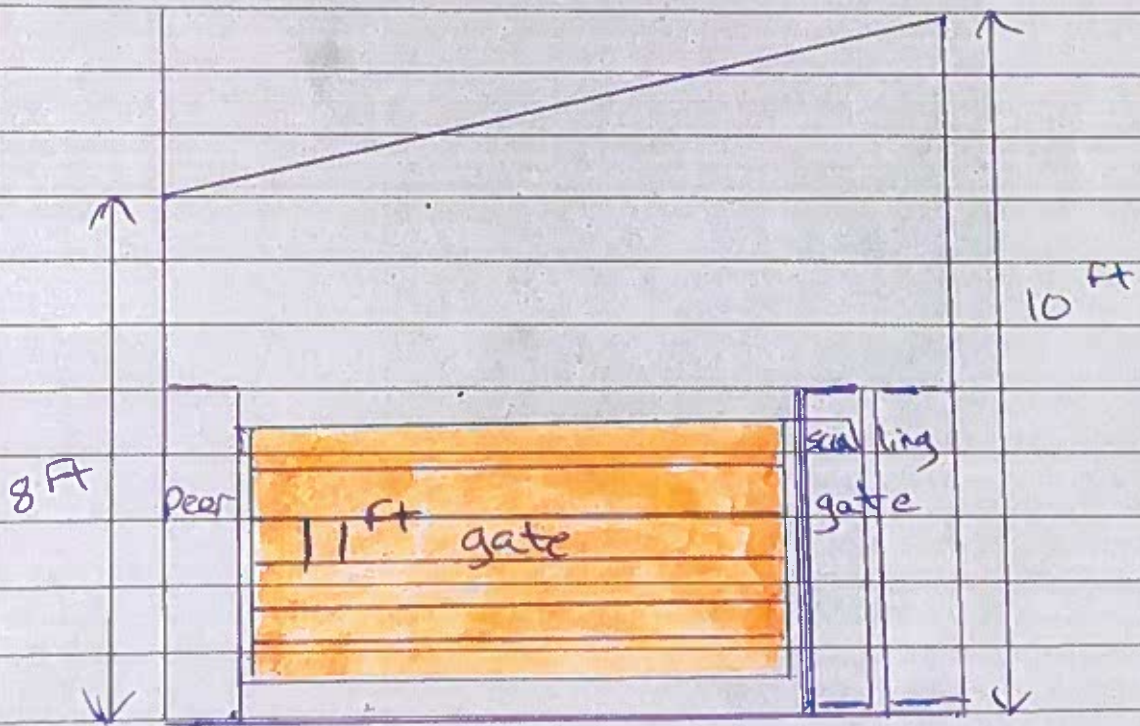
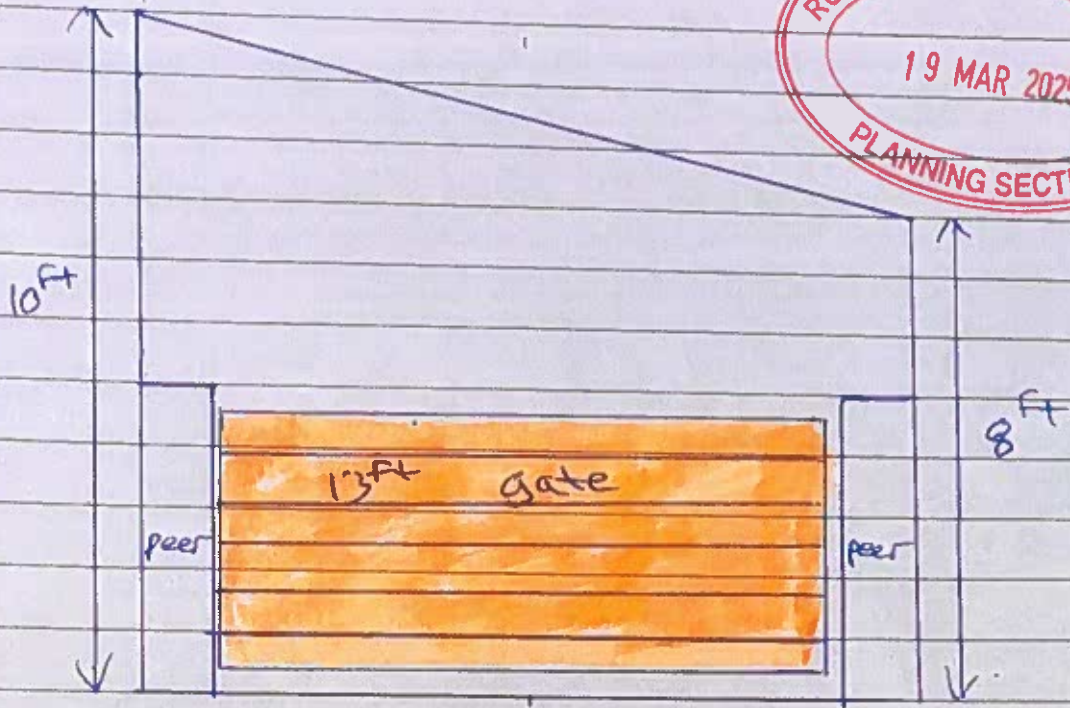
Box profile sheeting
for roof

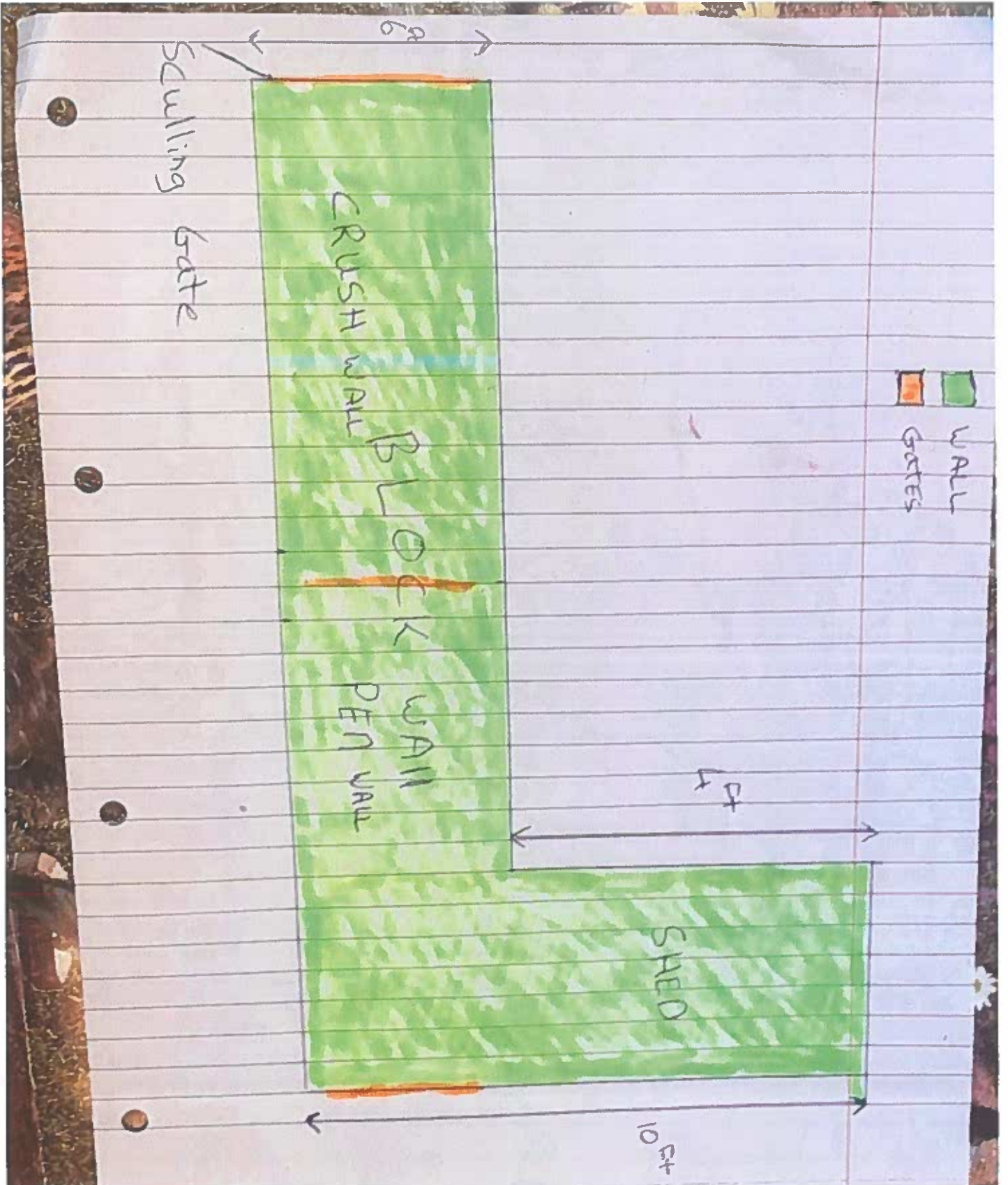


half of pen
roofed

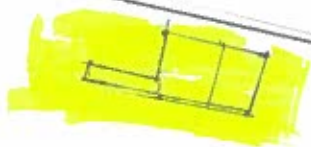


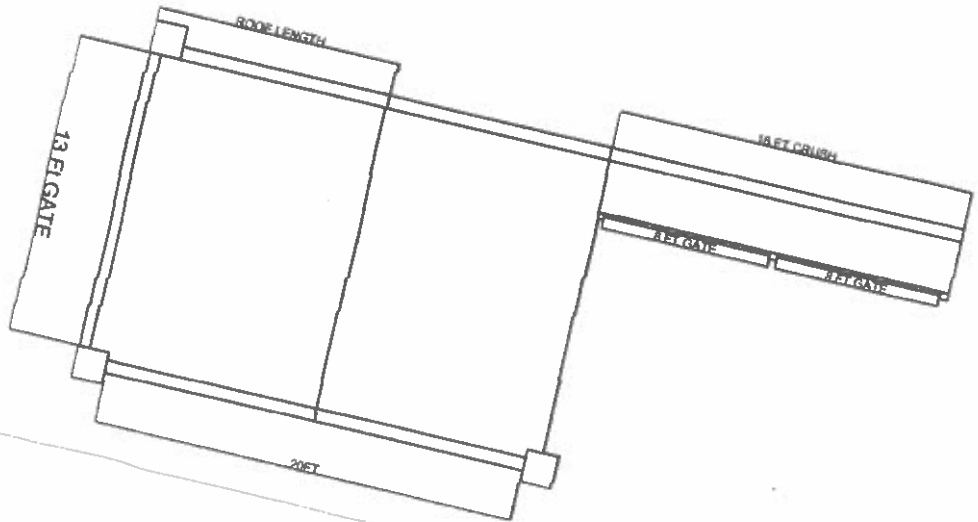
gates











SCALE 1:100



The Property
Registration Authority
An tÚdarás
Clárúcháin Maoin



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.

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

(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

