

MEATH COUNTY COUNCIL

CHIEF EXECUTIVE ORDER

Chief Executive Order Number: 1662/24

Reference Number: AA/S52484

Subject: Declaration under Part 1, Section 5, Planning and Development Act 2000-2022

Name of Applicant: Jimmy Patton

Address: C/o Joe Casserly
Jova Planning Consultants
Boyerstown
Navan
Co Meath


Nature of Application: The erection of 3 x Polytunnels (3 x 216m2 =648m2)

Location of Development: Newtown Commons, The Ward, Ashbourne, Co Meath

DECLARATION: This development is not exempted development and therefore is development requiring Planning Permission.

ORDER:

Being satisfied that all requirements relating to the Application have been complied with and to consider the proper Planning and Development of the County Meath Health District, IT IS HEREBY DECIDED, in pursuance of the above Act to declare that **this development is not exempted development and therefore is DEVELOPMENT REQUIRING PLANNING PERMISSION.**

SIGNED: 
On Behalf of Meath County Council

DATE: 22/11/2024

MEATH COUNTY COUNCIL

Planning Department

Buvinda House

Dublin Road

Navan, Co Meath

046 - 9097500

Planning & Development Act 2000- 2022

DECLARATION

To: Jimmy Patton
C/o Joe Casserly
Jova Planning Consultants
Boyerstown
Navan
Co Meath

**PLANNING REFERENCE
NUMBER:** AA/S52484

APPLICATION RECEIPT DATE: 31/10/2024

FURTHER INFORMATION DATE: N/A

In pursuance of the powers conferred upon them by the Planning and Development Act 2000-2022, Meath County Council has by order dated 22/11/2024 decided to Declare the proposed development is development and is not exempted development therefore is **development requiring planning permission**, in accordance with the documents submitted namely: **the erection of 3 x Polytunnels (3x216m² = 648m²) at Newtown Commons, The Ward, Ashbourne, Co Meath.**

Date: 22/11/2024

Triona Keating
On Behalf of Meath County Council

NOTE:

1. Any appeal against a Declaration of a Planning Authority under Section 5, sub-section 3(a) of the Planning and Development Act 2000 may be made to An Bord Pleanala by the applicant WITHIN FOUR WEEKS beginning on the date of issue of the Declaration.
2. Appeals should be addressed to An Bord Pleanala, 64 Marlborough Street, Dublin 1. An appeal by the applicant should be accompanied by this form. The fee for an appeal against a Declaration of the Planning Authority is € 220.

For more information on Appeals you can contact An Bord Pleanala at:

Tel: 01 - 8588100 or LoCall: 1890 275 175

Fax: 01 - 8722684

E-mail: bord@pleanala.ie

Web: www.pleanala.ie

Meath County Council

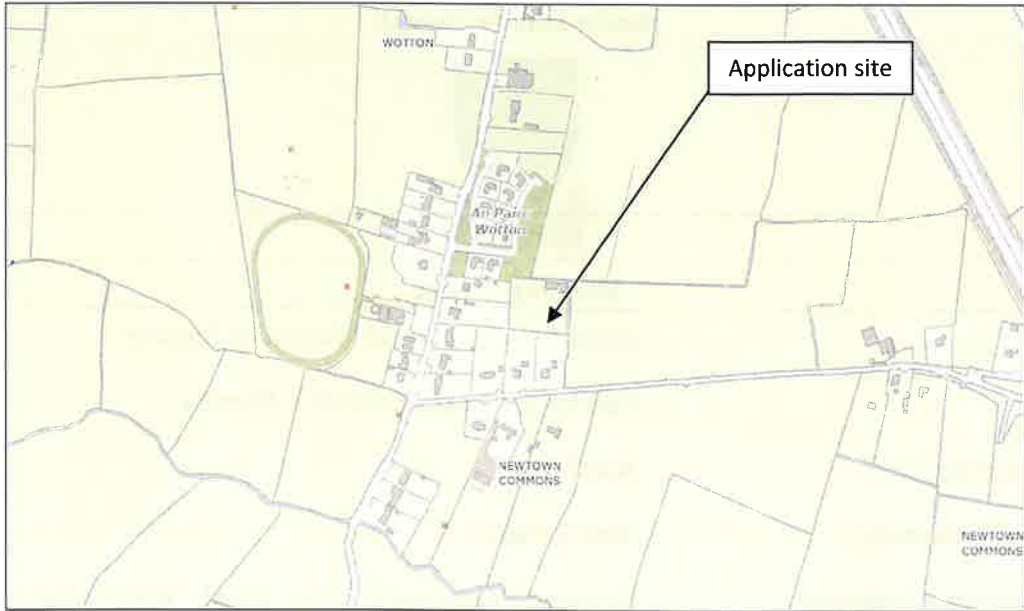


Planning Report

To:	Deirdre Fallon, Senior Executive Planner
From:	Peadar McQuaid, Executive Planner
File Number:	AAS52484
Applicant Name(s):	Jimmy Patton
Development Address:	Newtown Commons, The Ward, Ashbourne, Co. Meath
Inspection Date:	N/A
Application Type:	Section 5 of the Planning & Development Act 2000 (as amended): Declaration on Development/Exempted Development
Development Description:	Erection of 3 x Polytunnels
Report Date:	22 nd November 2024
Decision Due Date:	28 th November 2024

1.0 SITE LOCATION & DESCRIPTION

The subject site is located in the townland Newtown Commons along the L-5023. The site is to the rear of an existing dwelling (within ownership of applicant) and is accessed via a shared entrance. 2 no existing sheds are located on the site but outside of the red boundary. There are a number of dwellings along this local road and to the west. The small residential development of Wotton Park is to the northwest.



Site location



Aerial View

2.0 PROPOSED DECLARATION

The referrer seeks a declaration as to whether the erection of 3 x polytunnels (3 x 216m² = 648m²) is or is not development and is or is not exempted development.

3.0 PLANNING HISTORY

23632: Mr Jimmy Patton. Permission Refused - the retention of an entrance to my lands and all ancillary site development works.

23/632

Reasons for Refusal:

1. Having regard to the lack of information submitted with the application, it is considered that the applicant has not demonstrated a justification for the proposed entrance at this location. In the absence of a robust justification for the need for the development, it could lead to a depreciation of the value of property in the vicinity and would also set an undesirable precedent for similar future development in the area and would also be considered contrary to the proper planning sustainable development of the area.
2. Having consideration to the nature of the proposed development as indicated on the plans and particulars submitted consisting of an existing entrance on a narrow single-lane carriageway the Planning Authority is not satisfied that the development, if permitted would not endanger public safety by reason of traffic hazard and would not be in compliance with the TII document DN-GEO-03060 due to the failure to demonstrate appropriate sightlines. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

212097: Jimmy & Jenny Patton. Permission Refused the relocation of our existing combined entrances to the east of their present location.

212097

Reason for Refusal

1. Having regard to the lack of information submitted with the application and given the history of the site and previous refusal reasons under planning reference AA191834, it is considered that the applicant has not demonstrated a justification for a combined entrance at this location. In the absence of a robust justification for the need for the development, it could lead to a depreciation of the value of property in the vicinity and would also set an undesirable precedent for similar future development in the area, and would also be considered contrary to the proper planning sustainable development of the area.

AA191834: James Patton t/a Piercetown Plant Ltd. Permission Refused for 1. Retention of two buildings shown as A & B on site Layout Drg. No. 317/19/02 and Existing Buildings A & B 317/19/08 for the storage of topsoil complying with the European Waste Codes. 2. Permission for the importation and processing of soils complying with European Waste Codes and exporting the processed topsoil's and residue of pebble, cobble and stone in conjunction with company landscaping business, totalling 10,000 tonnes p/a. 3. Permission to construct: passing bays on local road L5023, revised site entrance with controlled entry, internal services roads, office/canteen with underground 20001 grey water storage tank, portable toilets, exit control barrier, wheel wash, construct emissions control berm from deposits on site, construct internal drainage network with interceptor to outfall to local watercourse, construct two no quarantine

bins on site, construction concrete inspection bay, construct buildings type C & D as shown on site layout drg 317/19/02 and Drg No. 317/19/07. An application will be made for registration under the Waste Management (Facilities Permit and Registration) Regulations SI No. 821 of 2007 and the Waste Management (Facility Permit Regulations) Amended Regulations SI 86 OF 2008.

AA191834

Reasons for Refusal

1. Having regard to the information submitted with the application, It is considered that the development, by reason of its industrial / waste processing nature with associated traffic movements, dust and noise, and its location to the rear of existing residential properties, would impact negatively on said residential properties in the vicinity. Consequently the proposal would seriously injure the residential amenities and depreciate the value of property in the vicinity by reason of loss of residential amenity as a result of noise, dust and additional traffic movements associated with the proposed development, the proposed development would also set an undesirable precedent for similar future developments in the area, would interfere with the character of the area and would be considered contrary to the proper planning and sustainable development of the area.
2. It is the policy of the County Development Plan (ED POL 21) to permit development proposals for industrial or business enterprises in the countryside where certain criteria are met. The proposed development, as presented, is considered to materially contravene said policy as the application has not demonstrated compliance with the criteria out in ED POL 21. It is considered therefore that the proposed development, if permitted, would be contrary to the proper planning and sustainable development of the area.

AA180910: Ms Jenny Patton. Permission Granted for construction of a two-storey style dwelling, construction of domestic garage, use of and upgrading of existing entrance, the construction of BAF sewage treatment system with polishing filter and to carry out all other necessary ancillary works.

DA30426: Mr. James Patten. Permission Refused for a dormer bungalow with a garage and stable block and biocycle waste water treatment unit on my property.

01959: Rose Patten. Permission refused for construction of 1 no. two storey dwelling house, installation of a puraflo proprietary waste water treatment unit, septic tank, percolation area & associated works

01342: Rose Patten. Permission refused for construction of 1 no. two storey dwelling house, installation of a puraflo proprietary waste water treatment unit, septic tank, percolation area & associated works

002175: Rose Patten. Permission refused for construction of 1 no. two storey dwelling house, installation of a puraflo proprietary waste water treatment unit, septic tank, percolation area & associated works

00409: Hazlemount Properties Ltd. Permission refused for the erection of four detached dwellings with individual waste water treatment systems

4.0 LEGISLATIVE CONTEXT

Planning and Development Act 2000 (as amended):

In this Act, except where the context otherwise requires –

Section 2(1)

"Works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

Section 3(1)

"Development" in this Act 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)

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

(j) development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such;

Section 4(2)(a)

"The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that –

- (i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or*
- (i) "the development is authorised, or is required to be authorised, by or under any enactment..."*

Section 4(2)(b)

"Regulations under paragraph (a) may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations."

Section 4(2)(c)

"Regulations under this subsection may, in particular and without prejudice to the generality of paragraph (a) provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purposes being exempted development for the purposes of this Act".

Section 177U(9)

"In deciding upon a declaration for the purposes of Section 5 of this Act a planning authority or the Board, as the case maybe, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this Section."

Planning and Development Regulations 2001 (as amended):

Article 6(3)

“Subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), 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 – 9(1)(a) – if the carrying out of such development would” conflict with the restriction on exemptions as outlined between (i) – (xii) of the regulations (see full text in regulations).

Schedule 2, Part 3 Exempted Development – Rural

Schedule 2, Part 3, Class 9 (Agricultural Structures) of the Planning and Development Regulations 2001 (as amended) relate to:

“Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres”, subject to the following conditions and limitations.

Conditions and Limitations (Column 2)

- 1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*
- 2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*
- 3. No such structure shall be situated within 10 metres of any public road.*
- 4. No such structure within 100 metres of any public road shall exceed 8 metres in height.*
- 5. No such structure shall be situated 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.*

5.0 ASSESSMENT

(i) Does the proposal constitute development:

Having regard to the definition of ‘development’ within the Planning and Development Act 2000 (as amended), *“the carrying out of works on, in, over or under lands or the making of any material change in the use of any structures or other land”;*

It is considered the works detailed would constitute development for planning purposes. Therefore, the focus, is on whether or not the proposed development constitutes exempted development.

(ii) Does the proposal constitute exempt development:

Based on the drawings submitted the proposal would be assessed against the conditions and limitations of Schedule 2, Part 3, Class 9 of the Planning & Development Regulations 2001 (as amended) as outlined below:

“Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

The proposal involves the erection of 3 no. x polytunnels ($3 \times 216\text{m}^2 = 648\text{m}^2$). The floor area of the proposed polytunnels exceed the 300 square metres threshold.

1. *No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*

The applicant has not provided any information in relation to the use or purpose of the proposed polytunnels. It is noted that applicant sought permission under Reg. Ref AA191834 for the importation, storage and exporting of processed topsoil and residue of pebble, cobble and stone as part of the applicant's landscaping business which was refused permission.

Due to insufficient detail, I consider the proposed structures would not come within the scope of this condition as the use/purpose can not be determined.

2. *The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*

The floor area of the proposed polytunnel structures is 648m^2 ($3 \times 216\text{m}^2$). I note while not within the redline boundary of the application site there are two existing sheds located just to the north, adjacent to site and form part of an overall complex within the applicant's control and ownership.

These sheds were refused retention permission under Reg. Ref AA191834 and do not currently benefit from planning permission.

Gross floor space of these sheds is stated as 267m^2 by the applicant in the documentation submitted under application Reg. Ref AA191834. The proposal together with the existing structures exceed 900 square metres gross floor space in aggregate.

3. *No such structure shall be situated within 10 metres of any public road.*

The proposed 3 x polytunnel structures are further than 10 metres away from the public road.

4. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*

The proposed 3 x polytunnels structures are within 100 metres of the public road but have a max height of 4.2m.

5. No such structure shall be situated 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.

There are approx. 7 no houses within 100 metres of the proposal. No written consent from these 3rd party residences has been submitted.

6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

No unpainted metal sheeting is to be used in the construction of the polytunnels as shown on the submitted drawing ref no JP10-2024-001.

Overall, I am satisfied that the proposed development does not meet the conditions and limitations of Schedule 2, Part 3, Class 11 of the Planning & Development Regulations 2001 (as amended).

(iii) Restrictions on Exemptions:

The proposal is also restricted by virtue of Article 9(1)(a)(i) – (xii) (inclusive) of the Planning and Development Regulations 2001 (as amended) in particular,

- a) Article 9(1)(a)(iii) 'endanger public safety by reason of traffic hazard or obstruction of road users'
- b) Article 9(1)(a)(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",

The existing vehicular entrance serving the proposed polytunnel structures has been refused retention permission under Reg. Ref. 23632 due to it being considered a traffic hazard. The refusal reason is outlined below.

Refusal reason no 2

Having consideration to the nature of the proposed development as indicated on the plans and particulars submitted consisting of an existing entrance on a narrow single lane carriageway the Planning Authority is not satisfied that the development, if permitted would endanger public safety by reason of traffic hazard and would not be in compliance with TII document DN-GEO-03060 due to the failure to demonstrate appropriate sightlines. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

The applicant has submitted a letter from Patrick & Jean Sutton, the landowners of the lands to the east of the existing entrance, confirming permission for the applicant to trim and maintain the roadside boundary hedge to facilitate sightlines. The letter is considered insufficient.

The submitted site layout plan does not demonstrate the achievement of the necessary sightlines. These works to achieve sightlines are outside of the subject site boundary, are not enforceable by the Planning Authority and outside of the remit of this application.

The existing entrance does not have the benefit of planning permission and is considered unauthorised development. Enforcement Notice ref UD22/098 is currently active on the site in relation to this entrance.

Therefore, it is considered the proposed development would be de-exempt as the application site entrance is unauthorised and deemed a traffic hazard.

(iv) Appropriate Assessment:

Article 6(3) of Council Directive 92/43/EEC (the Habitats Directive) compels competent authorities to undertake an appropriate assessment of any plan or project not directly connected with or necessary to the management of a Natura 2000 site but likely to have a significant effect thereon, either individually or in combination with other plans or projects.

'Appropriate Assessment of Plans and Projects, Guidance for Planning Authorities' (2009) provide advice to planning authorities on their obligations under the Habitats Directive. The document, "Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities", states that where, from the nature, size and location of the development, it is unclear if the proposal will have a significant effect on a Natura 2000 site(s), a Natura Impact Statement will be required.

The site is not within or directly adjoining any Natura 2000 site. The nearest site within 15km to the east;

- Malahide Estuary SAC (000205)
- Malahide Estuary SPA (004025)

The Planning Authority considered the nature, scale and location of the proposed development and other plans and projects (where there could be potential for cumulative or in-combination effects), the conservation objectives/ qualifying interests of European Sites within the vicinity of the site and the distance to European Sites, any protected habitats or species, the WFD catchment location, the underlying aquifer type and vulnerability and the excavation works, emissions, transportation requirements and duration of construction and operation and cumulative impacts associated with the proposal.

The Planning Authority's Screening for Appropriate Assessment has considered the potential effects including direct, indirect and in-combination effects of the proposed development, individually or in combination with the permitted developments and cumulatively with other plans or projects on European Sites. The Planning Authority concludes that the proposed development (entire project), by itself or in combination with other plans and developments in the vicinity, would not be likely to have a significant effect on European Site(s). In light of this, it is considered that a Stage 2 Appropriate Assessment (Natura Impact Statement) is not required in this instance.

(v) Environmental Impact Assessment:

As noted previously, the use of the proposed structures has not been stated. Therefore, it is not possible to conduct screening for EIA. Screening is required having regard to Section 4(4) of the Planning and Development Act 2000-2022.

(v) Conclusion

It is considered that the proposal be deemed development which is not exempted development as set out hereunder.

6.0 RECOMMENDATION

It is therefore recommended that this declaration of Exemption be determined as set out hereunder.

WHEREAS the question has arisen as to whether the erection of 3 x polytunnels is or is not development and is or is not exempted development.

AND WHEREAS Meath County Council in consideration of this question has had regard particularly to:

- (a) Sections 2, 3, 4 & 177U of the Planning and Development Act 2000 (as amended),
- (b) Article 6 & 9 of the Planning and Development Regulations, 2001 (as amended),
- (c) Schedule 2, Part 3, Class 9 Planning and Development Regulations 2001 – 2024
- (d) The planning history of the site,
- (e) Limited information provided.

AND WHEREAS Meath County Council has concluded: -

- (a) The proposal constitutes works which is development as defined in Section 3 of the Planning and Development Act 2000-2022.
- (b) The erection of 3 x polytunnels would not come within the conditions and limitations as set out under Class 9, Part 3, Schedule 2 of the Planning and Development Regulations 2001 (as amended) in particular conditions 1, 2 and 5.
- (c) Based on the information provided it has not been demonstrated that the existing entrance serving the development would not 'endanger public safety by reason of traffic hazard or obstruction of road users' and therefore would come within the restrictions on exempted development contained in Article 9(1)(a)(iii) of the Planning and Development Regulations 2001 (as amended).
- (d) Having regard to planning history of the site, the existing entrance serving the development does not have the benefit of planning permission and is considered unauthorised. Therefore, the development would come within the restrictions on exempted development contained in Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended).

NOW THEREFORE Meath County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the said development as detailed on plans and particulars submitted on 31st October 2024 is development and is not exempted development.



Peadar McQuaid
Executive Planner
22/11/2024

**RECOMMENDATION
ACCEPTED**

22 NOV 2024

Signed: 

Deirdre Fallon
Senior Executive Planner
22/11/2024

Comhairle Chontae na Mí

Roinn Pleanáil,
Teach Buvinda, Bóthar Átha Cliath,
An Uaimh, Contae na Mí, C15 Y291
Fón: 046 – 9097500/Fax: 046 – 9097001
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Meath County Council

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Web: www.meath.ie

APPLICATION FORM – DECLARATION ON DEVELOPMENT & EXEMPTED DEVELOPMENT

Part 1 Section 5 of Planning and Development Act 2000-2021, as amended

1. **Name:** Jimmy Patton

Contact details: to be supplied at the end of this form (Question 13)

2. **Name of person/ agent acting on behalf of the applicant, if applicable**

Joe Casserly c/o Jova Planning Consultants

Contact details: to be supplied at the end of this form (Question 14)

3. **Location of Development and/or Subject Site**

Newtown Commons, The Ward, Ashbourne, Co. Meath

4. **Description of Development:**

The erection of 3 x Polytunnels (3 x 216. 0m² = 648.0m²)

5. **Will the development take place within the curtilage of a dwelling house?**

Please tick as appropriate: YES NO

6. **Will / does development take place in / on a Protected Structure or within the curtilage of a Protected Structure?**

Please tick as appropriate: YES NO

6(b) **If “YES”, has a Declaration under Section 57 of the Planning & Development Act 2000 – 2014, as amended, been requested or issued for the property by the Planning Authority?**

Please tick as appropriate: YES NO

7. **State overall height of structure if applicable:** 4.200m

8. **State in square metres the floor area of the proposed development:**

3 x 216. 0m² = 648.0m²



9. List of plans / drawings etc. submitted:

Site Location Map	1:2500
Proposed Polytunnel -Plan, Section and Elevations	1:100
Site Layout	1:1000
Site Layout Sheet 1 of 2	1:500
Site Layout Sheet 2 of 2	1:500
Part Of Sight Layout With Sightlines Shown	1:500
Letter of Consent from Patrick Sutton	

10. Please state applicants interest in this site

OWNER _____

If applicant is not the owner of site, please provide name & address of owner:

11. Are you aware of any enforcement proceedings connected to this site?

Please tick as appropriate: YES ___ NO ___

11 (b), If "YES" please supply details:

12. Are you aware of any previous planning application/s on this site?

Please tick as appropriate: YES _ YES ___ NO ___

12 (b), If "YES" please supply details:

Plan Ref No	Received
23632	20-06-2023
212097	29-10-2021
AA191834	31-12-2019

SIGNED:  _____

DATE: 25-10-2024



ITM Co-ordinates
X = 707693.159 Y = 748064.321

ITM Co-ordinates
X = 708123.159 Y = 748064.321



ITM Co-ordinates
X = 707693.159 Y = 747481.321

ITM Co-ordinates
X = 708123.159 Y = 747481.321

SITE OUTLINED IN RED CONTAINS
0.5134 Ha (1.268 Acres)
LAND OWNERSHIP IN BLUE - JIMMY PATTON

AA552484

Centre Point Coordinates:
X,Y= 707908.159, 747772.821

Reference Index:
Map Series | Map Sheets
1:2,500 | 2922-D
1:2,500 | 2923-C

JOVA
PLANNING CONSULTANTS



Boyerstown, Navan, Co. Meath, Ireland
Mob: 085-7216787 e-mail: joecassery2@gmail.com

TITLE: SITE LOCATION MAP

CLIENT: JIMMY PATTON

Drawn by:
Val Cassery

Date:
19-08-2024

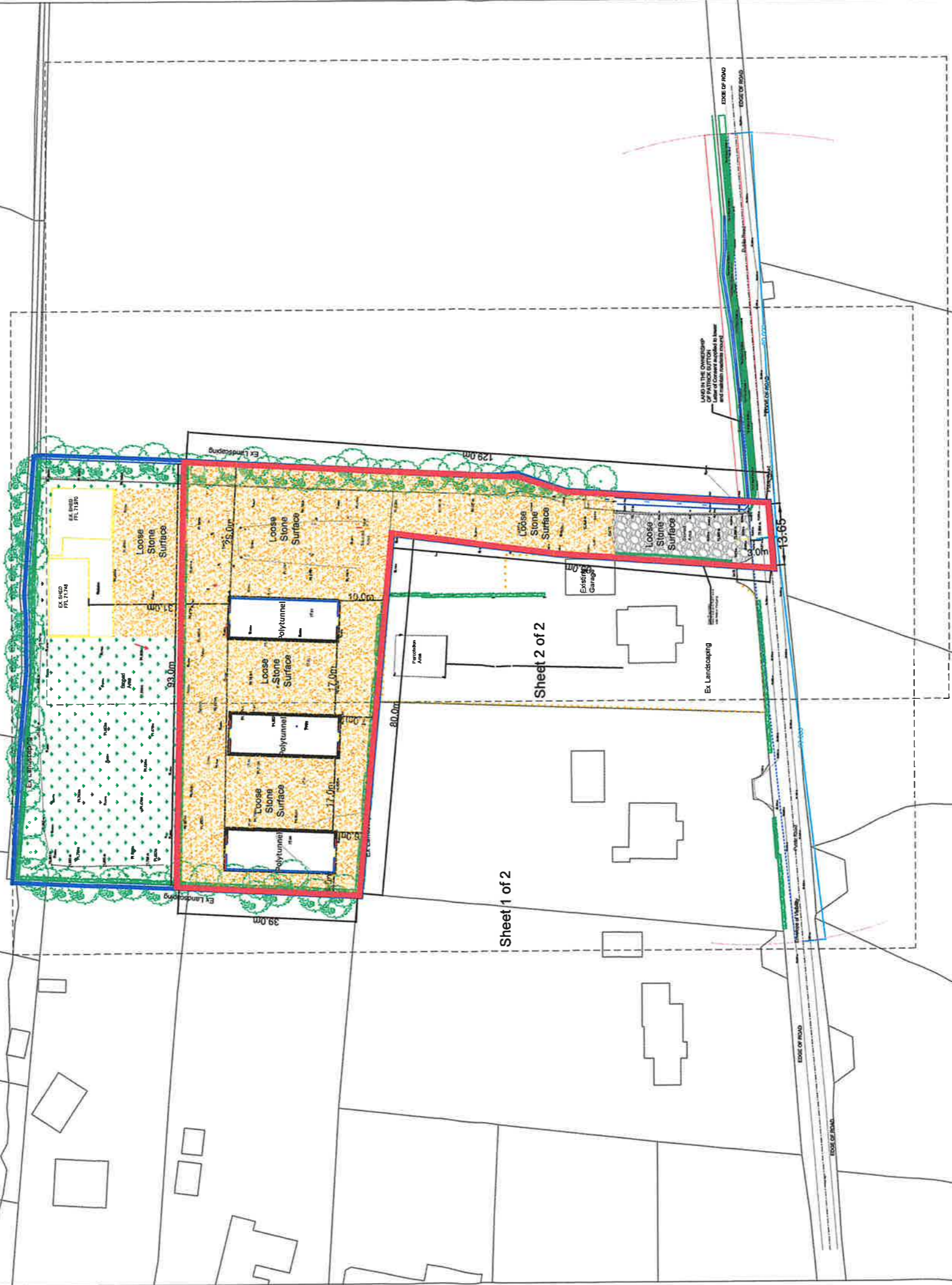
Scales:
1 : 2500

Drawing No.
OSI MAP

Rev. No.
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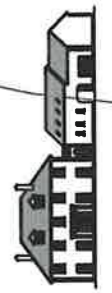
Ar Pairc Wotton



AA552484

SITE OUTLINED IN RED CONTAINS
0.5134 Ha (1.268 Acres)

JOVA
PLANNING CONSULTANTS



Boyerstown, Navan, Co. Meath, Ireland
Mob: 085-7216787 e-mail: jpcassery2@gmail.com

TITLE: SITE LAYOUT

CLIENT: JIMMY PATTON

Drawn by: Val Cassery Date: 25-10-2024 Scales: 1 : 1000

Drawing No. JP 01-2024-002 Rev. No. -