

Comhairle Chontae na Mí

Roinn Pleanáil,
Teach Buvinda, Bóthar Átha Cliath,
An Uaimh, Contae na Mí, C15 Y291
Fón: 046 – 9097500/Fax: 046 – 9097001
R-phost: planning@meathcoco.ie
Web: www.meath.ie



Meath County Council

Planning Department
Buvinda House, Dublin Road,
Navan, Co. Meath, C15 Y291
Tel: 046 – 9097500/Fax: 046 – 9097001
E-mail: planning@meathcoco.ie
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:** ANDREW FAY

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:** JARLATH JOHNSTON
C/o JM Johnston Consultants

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

3. **Location of Development and/or Subject Site:** BARFORDSTOWN, KELLS, CO. MEATH.

4. **Description of Development:** LEVELLING AGRICULTURAL LANDS BY THE IMPORTATION OF UNCONTAMINATED SOIL AND STONE UNDER ARTICLE 27.

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:** Not Applicable

8. **State in square metres the floor area of the proposed development:** 14,750m²

9. **List of plans / drawings etc. submitted:**

- Site Location Map (scale 1:2,500) – Dwg No 2582_P-01
- Site Layout Plan (scale 1:1,000) – Dwg No 2582_P-02, and
- Part Site Layout Plan (scale 1:500) – Dwg No 2582_P-03
- Cover letter from agent



10. Please state applicants interest in this site: The applicant has received consent from the legal owner of the lands to improve the levels on the ground by importing a by-product (inert soil & stone material) from another site.

If applicant is not the owner of site, please provide name & address of owner: Meade Farm Ltd, Braystown, Lobinstown, Navan, Meath.

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 ☐ NO ☒

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

SIGNED:

Jarlath Johnston .

DATE: 25th July 2025

NOTES

1. Application Fee of €80

2. Application shall be accompanied by:

- **2 copies of site location map to scale 1:2500** clearly showing the site outlined in red and the extent of the site boundaries, the position of existing structures, etc., and the proposed work.
- **2 drawings to scale (1:200)** of the proposed development (including floor plan and elevations), if appropriate.
- **Two site layout plans to scale 1:500** if appropriate. Please submit 2 copies of any additional plans/reports etc. you may wish to include as part of the application.

Application shall be forwarded to: Meath County Council, Planning Department, Buvinda House, Dublin Road, Navan, Co. Meath.

Contact Details: Phone: 046 9097500 Fax: 046 9097001

Email: planning@meathcoco.ie

2508 JUL 25

Planning Section,
Meath County Council,
Buvinda House,
Dublin Road,
Navan,
Co. Meath.

25th July 2025

RE: Application for a Declaration on Development & Exempted Development (Part 1 Section 5 of Planning and Development Act 2000-2021, as amended.

The leveling of agricultural lands by the importation of uncontaminated soil and stone under article 27.

Applicant: Andrew Fay.

Dear Sir / Madam,

On behalf of the applicant **Andrew Fay**, we wish to apply for a Declaration on whether the following works are classed as Development & Exempted Development.

- For the infilling of lands with material consisting of clean, uncontaminated soil and stones, including Article 27 material (by-product), to raise the levels and improve the land for agricultural purposes.

The applicant has received consent from the legal landowners, Meade Farm Ltd., to carry out the above works.

The applicant confirms the following.

- The use of an existing agricultural field gate entrance (double gate entrance), onto the public road will be used for access purposes. An existing gravelled access laneway will be used for access to the fill area.
- There will be a road sweeper employed throughout the infilling process to ensure the public roadway remains clean,
- The fill material will be uncontaminated clean soil and stone by-product only, which meets the guidance set out in Irish Legislation by Article 27 of the European Communities (Waste Directive) Regulations 2011.
- The overall depth of new infill material will be between 300mm to 500mm above existing ground levels.
- A 15-metre setback buffer zone will be maintained alongside the existing watercourse on the north-east site boundary of the field.

Please revert to us should you require further clarification in relation to any aspect of this application, and we look forward to an early and favorable decision on this application.

Yours sincerely,

Jarlath Johnston.

Jarlath Johnston. B.Sc. (Hons) Dip. Surv.

J.M. Johnston Project Management & Building Design Consultants

PLACE Map



Tailte Éireann

SITE OUTLINED IN RED.

CENTRE
COORDINATES:
UTM 671777,777

PUBLISHED: 25/07/2025	ORDER NO.: 50480878_1
MAP SERIES: 1:2,500 1:2,500 1:5,000 1:2,500	MAP SHEETS: 2308-D 2310-C 2372 2373-A

COMPILED AND PUBLISHED BY:
Taité Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4

www.tallte.ie

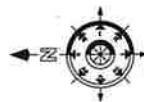
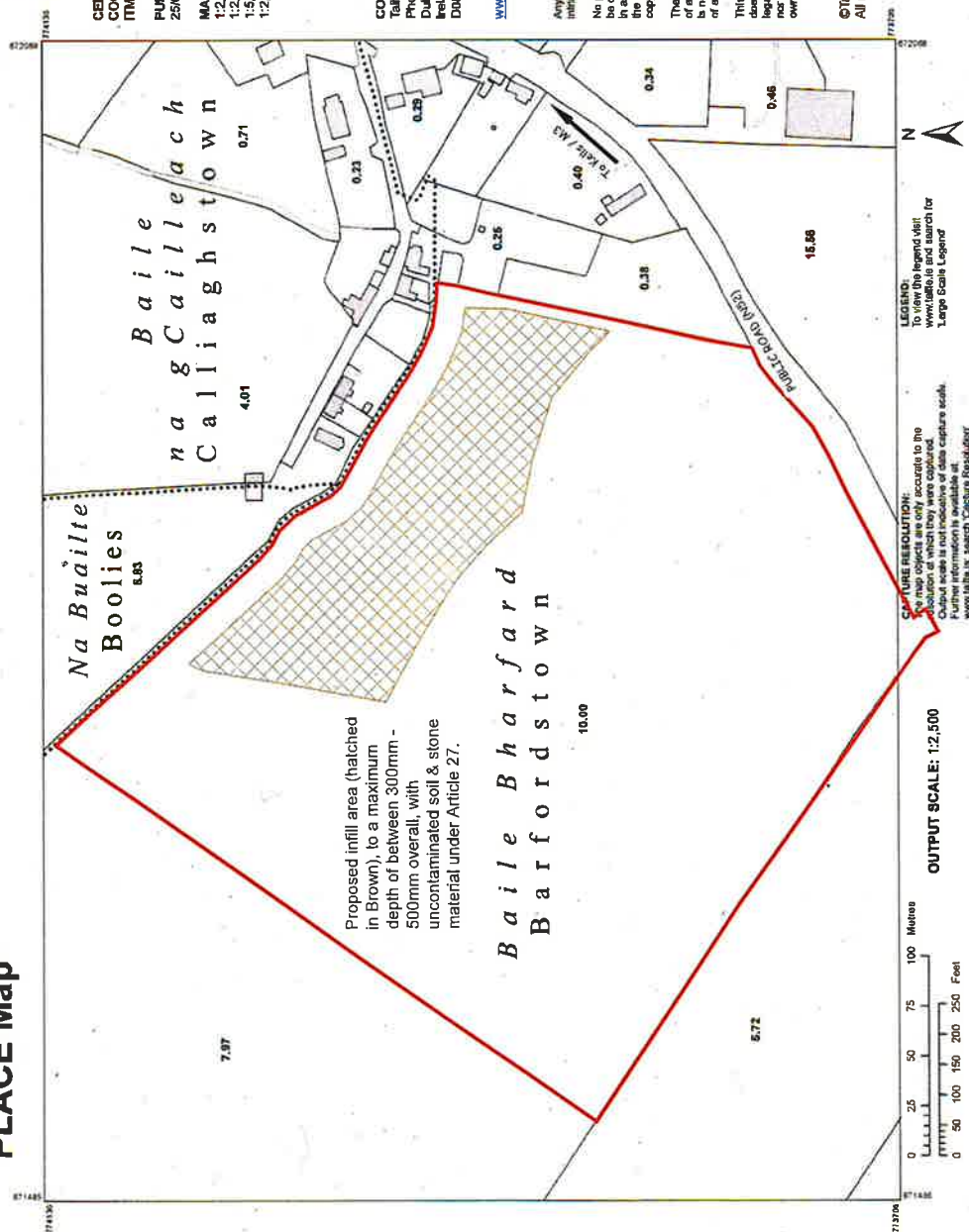
Any unauthorised reproduction
infringes Title Elreann copyright.

No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owner.

The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

This topographic map does not show legal property boundaries, nor does it show ownership of physical features.

©Tallie Ékeann, 2025.
All rights reserved.



SITE LOCATION MAP (scale 1:2500).

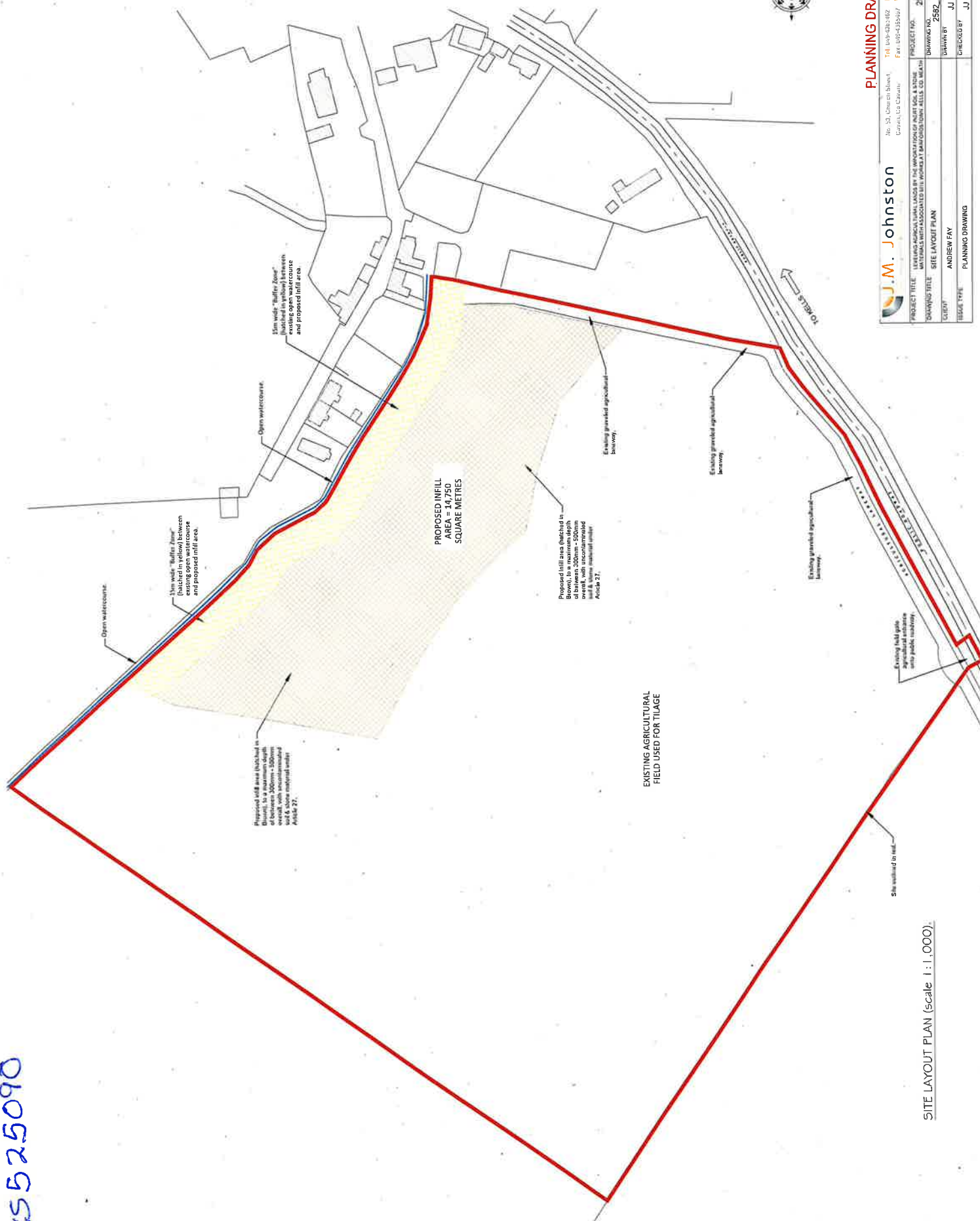
O.S. MAP REF. NO. 2309-D, 2310-C, 2372 & 2373-A
(1:2,500 MAP SERIES).

K5525090

PLANNING DRAWINGS ONLY

[illegible]

KS525090

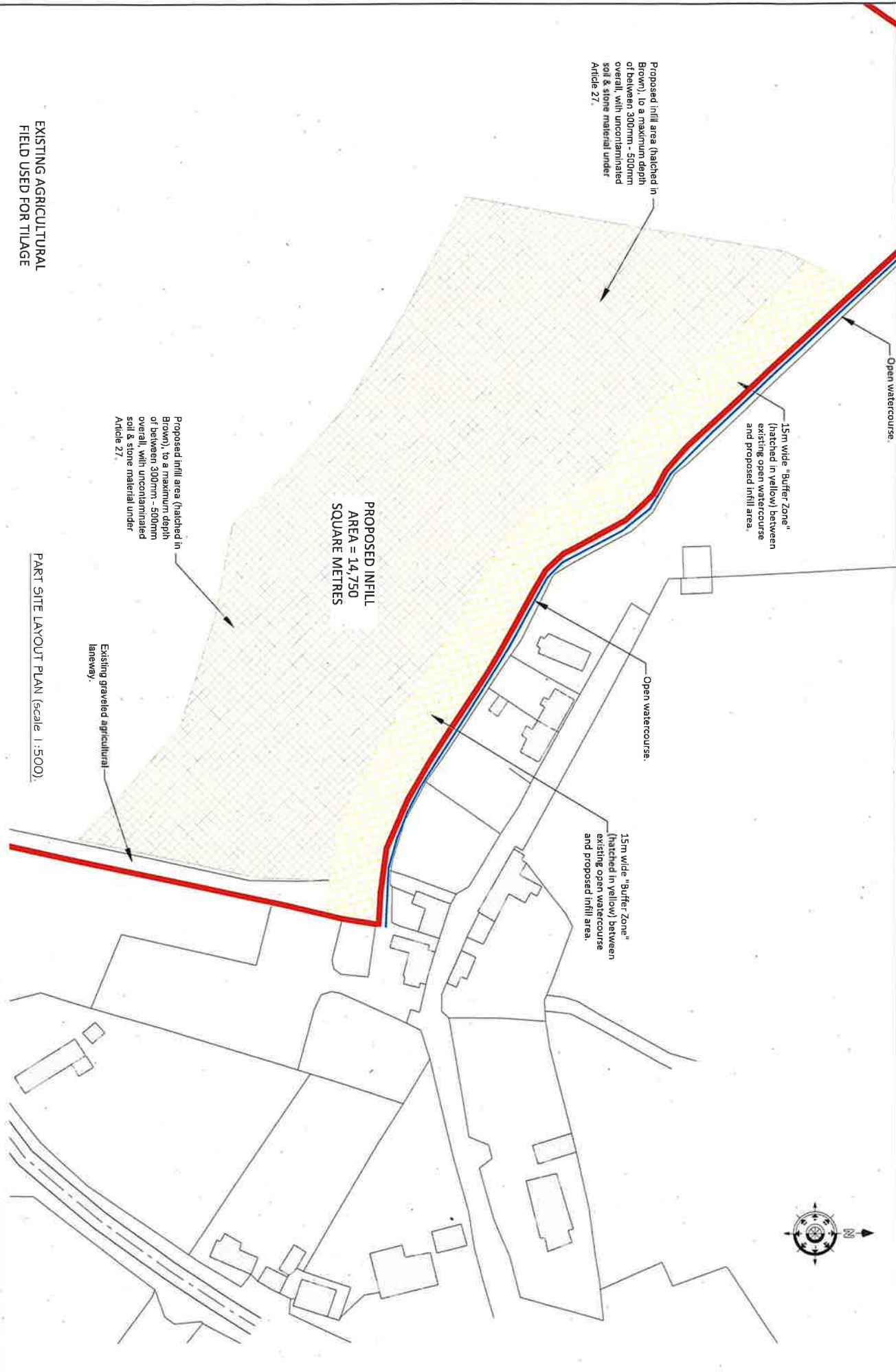


PLANNING DRAWINGS ONLY

J.M. Johnston No. 53, Orono Street Grafton, VIC 3350 Tel: 03-52509000 Fax: 03-52509001 Email: info@johnstonvic.com.au Web: www.johnstonvic.com.au		PROJECT NO: 25-42 DATE: 07-07-2025 REVISION: 1 DRAWING NO: 2592 P-02 DRAWN BY: JJ CHECKED BY: JJ SCALE: A1 AT 1:500 SCALE: A3 AT NTS	
PROJECT TITLE: LAKESIDE AGRICULTURAL LANDS BY THE MOUNTAIN OF ADRIAN & STONE WAYMILLS WITH ASSOCIATED LIT WORKS AT BARNES TOWN, ALPS CO. VIC		DRAWING TITLE: SITE LAYOUT PLAN	
CLIENT: ANDREW FAY		REGD TYPE: PLANNING DRAWING	

SITE LAYOUT PLAN (scale 1:1,000)

K5525090



EXISTING AGRICULTURAL
FIELD USED FOR TILAGE

PROPOSED INFILL
AREA = 14,750
SQUARE METRES

PART SITE LAYOUT PLAN (scale 1:500)

DATE	REV.	STAGE	NOTES	DATE	REV.	STAGE	NOTES

J.M. Johnston		PROJECT TITLE: DEVELOPING AGRICULTURAL LANDS BY THE RECONSTRUCTION OF MAINTENANCE & STONE WALLS AND FENCES TO THE SOUTH OF THE SITE AND TO THE NORTH OF THE SITE AND TO THE WEST OF THE SITE AND TO THE EAST OF THE SITE	
DRAWING TITLE: PART SITE LAYOUT PLAN		PROJECT NO: 25-82	
CLIENT: ANDREW FAY		DRAWING NO: 2582_P-03	
DRAWN BY: JJ		SCALE: A1/A1 1:500	
CHECKED BY: JJ		DATE: 07-07-2025	
PLANNING DRAWING		REVISION:	
		NTS	

PLANNING DRAWINGS ONLY

MEATH COUNTY COUNCIL

CHIEF EXECUTIVE ORDER

**Chief Executive Order
Number:**

1399/25

Reference Number:

KS525090

Subject:

Declaration under Part 1, Section 5, Planning and Development Act
2000-2023

Name of Applicant:

Andrew Fay

Address:

c/o JM Johnston Consultants
53 Church Street
Cavan
Co Cavan H12 DN24

Nature of Application:

Levelling Agricultural lands by the importation of uncontaminated
soil & stone under Article 27.

Location of Development:

Barfordstown, Kells, 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:

18.08.25

MEATH COUNTY COUNCIL

Planning Department

Buvinda House

Dublin Road

Navan, Co Meath

046 - 9097500

Planning & Development Act 2000- 2023

DECLARATION

**To: Andrew Fay
c/o JM Johnston Consultants
53 Church Street
Cavan
Co Cavan H12 DN24**

**PLANNING REFERENCE
NUMBER:**


K/S525090

APPLICATION RECEIPT DATE: 25/07/2025

FURTHER INFORMATION DATE: NA

In pursuance of the powers conferred upon them by the Planning and Development Act 2000-2023 Meath County Council has by order dated 18.08.25 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: **Levelling Agricultural lands by the importation of uncontaminated soil & stone under Article 27 at Barfordstown, Kells, Co Meath.**

Date: 18-08-25


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



comhairle chontae na mí
meath county council

Meath County Council

Planning Report

To:	Wendy Bagnall, Senior Executive Planner
From:	Nathan Cooney, Executive Planner
Date:	12/08/2025
MCC File Number:	KS525090
Applicants:	Andrew Fay
Development Address:	Barfordstown, Kells, Co. Meath
Application Type:	Section 5 of the Planning & Development Acts 2000-2023 Declaration on Development/Exempted Development.
Development Description:	Levelling agricultural lands by the importation of uncontaminated soil and stone under article 27
Date Decision Due:	22/08/2025

1.0 Site Location & Description

The application site is currently in use for agricultural use. The subject site is located at Barfordstown, Kells, Co. Meath. The application site is located c.3.5km southwest of Kells, Co. Meath, and is accessed via the N52 onto a local cul-de-sac. The application site forms part of a large farm holding. The proposed fill area is 14,750sq.m (c.1.475 ha). There are no recorded monuments or protected structures on the subject site. There is a watercourse located along the northern boundary of the site. The applicant has indicated that they are not the owner of the site but have legal consent for the works. However, no letter of consent has been submitted at this stage.



Fig. 1.0: Aerial image of the subject lands to which the application relates (outlined in red).

2.0 Proposed Declaration

The applicant describes the development in the completed application form as *"levelling agricultural lands by the importation of uncontaminated soil and stone under article 27"*.

The Planning Authority is considering this question as:

Whether the land reclamation works consisting of levelling agricultural lands by the importation of uncontaminated soil and stone under article 27 is or is not development and is or is not exempted development.

The completed application form and submitted documents indicate that the extent of works proposed.

3.0 Planning History

Subject Site

None.

4.0 Relevant National Legislation

In order to assess whether or not the works described in Section 2.0 of this report is or is not development or is or is not exempted development regard must be had to the following national legislation set out below.

4.1 Section 2 of the Planning & Development Acts 2000-2023

Section 2 of the Planning & Development Acts 2000-2023 provides the following interpretations which are relevant:

“development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly;

“exempted development” has the meaning specified in section 4;

“structure” means *inter alia* any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and where the context so admits, includes the land on, in or under which the structure is situate; and

“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.

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature for the kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and “agricultural” shall be construed accordingly.

4.2 Section 3 of the Planning & Development Acts 2000-2023

Section 3(1) of the Planning & Development Acts 2000-2023 defines “development” as follows:

“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.”

4.3 Section 4 of the Planning & Development Acts 2000-2023

Section 4(1) of the 2000 Act states that certain developments shall be “exempted development” for the purposes of the Act including.

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

(i) development consisting of the carrying out of works referred to in the Land Reclamation Act, 1949, not being works comprised in the fencing or enclosure of land which has been open to or used by the public within the ten years preceding the date on which the works are commenced.

I note that the “works” in the Land Reclamation Act 1949 refers to the following: —

- (a) field drainage;
- (b) land reclamation;
- (c) the construction and improvement of watercourses;

- (d) the removal of unnecessary fences;
- (e) the construction of new fences and the improvement of existing ones;
- (f) improvement of hill grazing;
- (g) reclamation of estuarine marsh land and of callows;
- (h) any operations ancillary to the foregoing.

4.4 Section 5 of the Planning & Development Acts 2000-2023

Section 5 of the Planning & Development Acts 2000-2023 provides *inter alia*:

- (1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.
- (2) (a) Subject to *paragraph (b)*, a planning authority shall issue the declaration on the question that has arisen and the main reasons and considerations on which its decision is based to the person who made the request under *subsection (1)*, and, where appropriate, the owner and occupier of the land in question, within 4 weeks of the receipt of the request.

(b) A planning authority may require any person who made a request under *subsection (1)* to submit further information with regard to the request in order to enable the authority to issue the declaration on the question and, where further information is received under this paragraph, the planning authority shall issue the declaration within 3 weeks of the date of the receipt of the further information.

(c) A planning authority may also request persons in addition to those referred to in *paragraph (b)* to submit information in order to enable the authority to issue the declaration on the question.

4.5 Section 32 of the Planning & Development Acts 2000-2025

Section 32 of the Planning & Development Acts 2000-2025 sets out a general obligation to obtain planning permission in respect of any development of land, not being exempted development, and in the case of development which is unauthorised, for the retention of that unauthorised development.

4.6 Article 8 of the Planning & Development Regulations 2001-2025

Article 8 of the Planning & Development Regulations 2001-2025 relates to exemptions for field drainage.

- Article 8B relates to field drainage for agriculture, other than reclamation of wetlands.
- Article 8C relates to land reclamation works, other than reclamation of wetlands, consisting of recontouring of land, including infilling of soil (but not waste material), within a farm holding shall be exempted development.

4.7 Article 6 of the Planning & Development Regulations 2001-2025

Article 6 of the Planning & Development Regulations 2001-2025 provides (subject to the restrictions in article 9 of the Planning & Development Regulations 2001-2025) for the classes of exempted development under column 1 of Parts 1, 2 and 3 of Schedule 2, subject, where applicable, to the conditions and limitations imposed upon such classes as set out in column 2.

CLASS 11	Conditions and Limitations
Development consisting of the carrying out of drainage and/or reclamation of wetlands	<ol style="list-style-type: none"> 1. The area to be affected shall not exceed 0.1 hectares. 2. Where development has been carried out within a farm holding under this class, the total area of any such development taken together with the area of any previous such development within the farm holding shall not exceed the limits set out in above.

4.8 Article 9 of the Planning & Development Regulations 2001-2025

Article 9 of the Planning & Development Regulations 2001-2025 imposes specific restrictions on development of classes specified in Parts 1, 2 and 3 of Schedule 2 and in effect de-exempts certain classes of development that would be exempt under normal circumstances.

6.0 Assessment

The question has arisen as to *“whether the land reclamation works consisting of levelling agricultural lands by the importation of uncontaminated soil and stone under article 27 is or is not development and is or is not exempted development.”* In this regard it is necessary to consider the question of “development” and “exempted development” as provided for in statute and summarised above.

6.1 “Development”

The submitted application form states that the applicant is proposing the levelling of agricultural lands by the importation of uncontaminated soil and stone under article 27. The submitted cover letter prepared by J.M. Johnston outlines that the works will consist of the following;

- For the infilling of lands with material consisting of clean, uncontaminated soil and stones, including Article 27 material (by-product), to raise the levels and improve the land for agricultural purposes.
- The use of an existing agricultural field gate entrance (double gate entrance), onto the public road will be used for access purposes. An existing gravelled access laneway will be used for access to the fill area.
- There will be a road sweeper employed throughout the infilling process to ensure the public roadway remains clean,
- The fill material will be uncontaminated clean soil and stone by-product only, which meets the guidance set out in Irish Legislation by Article 27 of the European Communities (Waste Directive) Regulations 2011.

- The overall depth of new infill material will be between 300mm to 500mm above existing ground levels.
- A 15-metre setback buffer zone will be maintained alongside the existing watercourse on the northeast site boundary of the field.

It is considered this falls within the statutory interpretation of works and therefore within the section 3(1) PDA 2000 definition of development.

6.2 “Exempted Development”

In terms of whether the development is exempted development, the applicants proposes the levelling agricultural lands by the importation of uncontaminated soil and stone under article 27. The proposed fill area is 14,750sq.m (c.1.475 ha).

From a review of the submitted plans and particulars, it is evident that the proposal does not comply with Class 11 of the Planning & Development Regulations 2001-2025. Class 11 sets out that these works are only exempted development on areas that do not exceed 0.1 ha. The proposal exceeds this threshold and therefore is considered to be development and not exempted development.

7.0 Appropriate Assessment

Article 6(3) of Council Directive 92/43/EEC (as amended) on the conservation of natural habitats and of wild fauna and flora (‘the Habitats Directive’) requires that any plan or project that is not directly connected with or necessary to the management of the Natura 2000 site concerned but is likely to have a significant effect on it, on its own or in combination with other plans and projects, is to be authorised only if it will not adversely affect the integrity of that site. The application site is not within any designated Natura 2000 site. The nearest sites located within 15km of the subject site are as follows:

- River Boyne And River Blackwater SAC (Site Code 002299)
- River Boyne and River Blackwater SPA (Site Code 004232)
- Girley (Drewstown) Bog SAC (Site Code 002203)
- Killyconny Bog (Cloghbally) SAC (Site Code: 000006)

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. It is considered that due to the limited information submitted, and the close proximity to watercourses in the area, the Planning Authority cannot rule out any impacts on European Site(s). In light of this it is considered that the applicant would be required to submit an AA Screening, and if required a Natura Impact Assessment.

8.0 Environmental Impact Assessment

The Planning Authority is required to determine if the proposed development requires an Environmental Impact Assessment (EIA). This determination is based on the requirements set out in Schedule 5 of the Planning & Development Regulations, 2001 to 2019, that does not exceed the stated threshold (as per Article 92). The development is not listed in Schedule 5 therefore a mandatory EIA is not required.

The Planning Authority must also determine if a sub-threshold EIS is required. The proposed development is significantly below the relevant threshold for such development and, will not by itself, or in combination with other developments, exceed the said threshold. Therefore, the Planning Authority is satisfied that a sub-threshold EIS is not required.

9.0 Conclusion and Recommendation

It is therefore recommended that a declaration of Exemption not be issued for levelling agricultural lands by the importation of uncontaminated soil and stone under article 27 as indicated on the submitted plans and particulars.

WHEREAS the question has arisen as to whether

- *“Whether the land reclamation works consisting of levelling agricultural lands by the importation of uncontaminated soil and stone under article 27 at Barfordstown, Kells, Co. Meath 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 of the Planning and Development Act 2000 – 2023,
- (b) Article 6, 8(c) 9 of the Planning and Development Regulations, 2001-2025
- (c) Information provided.

AND WHEREAS Meath County Council has concluded: -

- (a) *That land reclamation works consisting of levelling agricultural lands by the importation of uncontaminated soil and stone under article 27 at Barfordstown, Kells, Co. Meath development does not come within the scope of Class 11 of Part 3 of Schedule 2 to the of the Planning and Development Regulations, 2001, as amended, (Land Reclamation - infilling of wetlands) because of non- compliance with the conditions and limitations no. 1 of that Class, as the area in question exceeds the 0.1 hectares.*
- (b) *The land reclamation works consisting of levelling agricultural lands by the importation of uncontaminated soil and stone under article 27 at Barfordstown, Kells, Co. Meath are therefore development and not exempted development.*

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 land reclamation works consisting of levelling agricultural lands by the importation of uncontaminated soil and stone under article 27 at Barfordstown, Kells, Co. Meath as detailed on plans and particulars submitted on 25/07/2025 is development and is not exempted development.

Nathan Cooney

Nathan Cooney
Executive Planner
Date: 12/08/2025

W Bagnall

Wendy Bagnall
Senior Executive Planner
Date: 15/08/25