

Áras an Chontae,
Cnoc na Radharc, Gaillimh.
H91 H6KX.

Áras an Chontae,
Prospect Hill, Galway.
H91 H6KX.

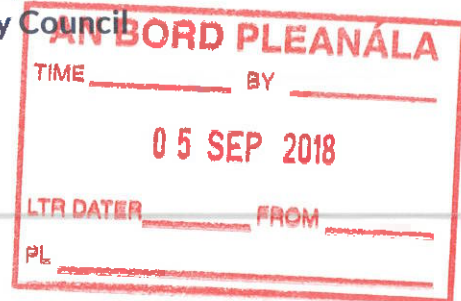
Fón/Phone: (091) 509 000
Facs/Fax: (091) 509 010
Idirlián/Web: www.gaillimh.ie
www.galway.ie

@GalwayCoCo
GalwayCounty



Planning ref: ED 17/52 **Comhairle Chontae na Gaillimhe**
Galway County Council

Your ref: ABP-302390-18



4th September, 2018

An Bord Pleanála
64 Marlborough Street,
Dublin 1.

**Re: Planning Reference No. ED 17/52 – for an Agricultural Shed in the
townland of Tonroe, Ardrahan, Co. Galway.**

Dear Sir/Madam,

In reply to your letter dated the 24th August, 2018, please find enclosed a copy of the following documents relating to planning reference No. ED 17/52.

1. Copy of Application Documentation.
2. Copy of Maps and Plans.
3. Copy of Planner's Recommendation.
4. Copy of notification of decision to the Applicant

Please let me know if you require further details.

Yours faithfully,

for Planning & Sustainable Development Unit
Galway County Council

Seirbhísí Corparáideacha
Corporate Services
(091) 509 225
corpserv@galwaycoco.ie

Tithíocht
Housing
(091) 509 300
housing@galwaycoco.ie

Timpeallacht & Tréidliacht
Environment & Veterinary
(091) 509 510
environment@galwaycoco.ie

Bóithre, Iompar, Cúrsaí Mara
& Seirbhísí Ginearálta
Roads, Transportation, Marine
& General Services
(091) 509 309
roads@galwaycoco.ie

Acmhainní Daonna
Human Resources
(091) 509 303
hr@galwaycoco.ie

Mótarcháin
Motor Taxation
(091) 509 099
motortax@galwaycoco.ie

Clár i. R. Ríghthóirí
Register of Electors
(091) 509 310
electors@galwaycoco.ie

Seirbhísí Uisce
Water Services
(091) 509 505
water@galwaycoco.ie

Pobal & Fiontar
Community & Enterprise
(091) 509 521
community@galwaycoco.ie

Pleanáil
Planning
(091) 509 308
planning@galwaycoco.ie

Leabharlann
Library
(091) 562 471
info@galwaylibrary.ie

Áras an Chontae,
Dnoc na Radharc, Gaillimh.
t91 H6KX.

Áras an Cl. ,
Prospect Hill, Galway.
t91 H6KX.

Fón/Phone: (091) 509 000
Facs/Fax: (091) 509 010
dirfón/Web: www.gaillimh.ie
www.galway.ie

@GalwayCoCo

GaivayCounty



cm- ED 17/52

Comhairle Chontae na Gaillimhe
Galway County Council

31st July 2018

Fithíocht
Housing
t(091) 509 300
housing@galwaycoco.ie

Jeontais Fithíochta
Housing Services
t(091) 509 301
housing@galwaycoco.ie

Seirbhísí Corparáideacha
Corporate Services
t(091) 509 225
corpserv@galwaycoco.ie

Timpeallacht & Tréidíocht
Environment & Veterinary
t(091) 509 510
environment@galwaycoco.ie

3óithre, Iompar, Cúrsaí Mara
& Seirbhísí Ginearálta
Roads, Transportation, Marine
& General Services
t(091) 509 309
roads@galwaycoco.ie

Acmhainní Daonna
Human Resources
t(091) 509 303
hr@galwaycoco.ie

Mótarcháin
Motor Taxation
t(091) 509 099
motortax@galwaycoco.ie

Clár Roghthóirí
Register of Electors
t(091) 509 310
electors@galwaycoco.ie

Seirbhísí Uisce
Water Services
t(091) 509 505
water@galwaycoco.ie

Pobal & Fiontar
Community & Enterprise
t(091) 509 521
community@galwaycoco.ie

Pleanáil
Planning
t(091) 509 308
planning@galwaycoco.ie

Leabharlann
Library
t(091) 562 471
info@galwaylibrary.ie

Frank Higgins
c/o Grealish Glynn & Associates
1 The Punchbowl
Ennis Road
Gort
Co Galway

**RE: Declaration of Exempted Development under section 5 of the Planning & Development Act 2000 – ED 17/52
Decision – NOT EXEMPT**

A Chara,

I refer to the above application which was received by this office on the 20th December 2017.

The Planning Authority, in considering this Section 5 application, had regard particularly to

- (a) The definition of "works" set out in Section 2 of the Planning and Development Act 2000 (as amended).
- (b) The definition of "development" set out in Section 3 of said Planning and Development Act.
- (c) Section (3) of said Planning and Development Act.
- (d) Section 4 (1) (h) & (4) of said Planning and Development Acts.
- (e) Article 6(1) of said Planning and Development Regulations.
- (f) Article 9(1)(a) subsections (i), (vi), (vii), (viiB) & (viiC) of said Planning and Development Regulations.
- (g) Class 9' of Schedule 2 Part 3 of the 2001 Planning and Development Regulations.
- (h) Documents submitted from the referrer in this Section 5 application.
 - (i) Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended)

mailed 31.7.18

Áras an Chontae,
Cnoc na Radharc, Gaillimh.
H91 H6KX.

Áras an Chontae,
Prospect Hill, Galway.
H91 H6KX.

Fón/Phone: (091) 509 000
Facs/Fax: (091) 509 010
Idirlíon/Web: www.gaillimh.ie
www.galway.ie

@GalwayCoCo
GalwayCounty



Comhairle Chontae na Gaillimhe Galway County Council

The Planning Authority, in exercise of the powers conferred on it by Section 5 of the 2000 Planning Act (as amended), hereby decides that:

The existing agricultural shed of approximately 288 sq.m at Tonroe, Ardrahan, County Galway is development and is **not exempted development** under 'Class 9' of Schedule 2 Part 3 of the 2001 Planning and Development Regulations.

Mise le meas



James Russell

**A/Senior Executive Planner
Planning & Sustainable Development Unit**

PR

Tithíocht
Housing
(091) 509 300
housing@galwaycoco.ie

Deontais Tithíochta
Housing Grants
(091) 509 361
housing@galwaycoco.ie

Seirbhísí Corparáideacha
Corporate Services
(091) 509 225
corpser@galwaycoco.ie

Timpeallacht & Tréidliacht
Environment & Veterinary
(091) 509 510
environment@galwaycoco.ie

Bóithre, Iompar, Cúrsaí Mara
& Seirbhísí Ginearálta
Roads, Transportation, Marine
& General Services
(091) 509 309
roads@galwaycoco.ie

Acmhainní Daonna
Human Resources
(091) 509 363
hr@galwaycoco.ie

Mótarcháin
Motor Taxation
(091) 509 099
motortax@galwaycoco.ie

Clár na dToghthóirí
Register of Electors
(091) 509 310
electors@galwaycoco.ie

Seirbhísí Uisce
Water Services
(091) 509 505
water@galwaycoco.ie

Pobal & Fiontar
Community & Enterprise
(091) 509 521
community@galwaycoco.ie

Pleanáil
Planning
(091) 509 308
planning@galwaycoco.ie

Leabharlann
Library
(091) 562 471
info@galwaylibrary.ie

PLANNER'S REPORT

File Ref: ED 17/52

Applicant: Frank Higgins.

Location: Tonroe, Ardrahan, Co. Galway.

Section 5 of the Planning and Development Act 2000 (as amended)

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 the 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.

Proposed – Application

Whether an existing agricultural shed of approximately 288 sq.m at Tonroe, Ardrahan, Co. Galway is or is not development or, is or is not exempted development within the meaning of the Planning and Development Acts, 2000 (as amended) and Planning and Development Regulations, 2001 (S.I. No. 600 of 2001) (as amended).

Site Location

The site is located at the Tonroe, Ardrahan, to the eastern side of the R458 along the L-85664-0 and circa 2.3 km North of the settlement boundary of Ardrahan in the townland of Tonroe, County Galway.

Relevant Legislation

The following excerpts from current planning legislation are relevant to the assessment of this referral.

2000 Planning and Development Act

Section 2 of the Planning and Development Act, 2000 defines the terms used within the act and states that

“Works” includes any act or operation of construction, excavation, demolition, extension or alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes...

and

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined,

Section 3(1) states:

“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 sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act. (The 2001 Planning Regulations as amended derive from this section and designate further works as being exempted development for the purposes of the act)

2001 Planning and Development Regulations (as amended)

Article 6 deems the development set out in Schedule 2 to be exempted development. Column 1 describes the development which can be considered exempted development, while Column 2 describes the conditions and limitations applicable to such exemption. Part 3 sets out exemptions for rural areas. 'Class 9' and its conditions/limitations are as follows:

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.

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

Article 9 (1) (a) sets out general restrictions on exemption, stating that "Development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would..." before going on to list a number of applicable circumstances. (Article 9(1)(a)(viii))

Planning Assessment:

The applicant is seeking written opinion from the Planning Authority under Section 5 of the Planning and Development Act, 2000 (as amended), as to whether the existing agricultural shed of approximately 288 sq.m at Tonroe, Ardrahan, County Galway is or is not development or, is or is not exempted development within the meaning of the Planning and Development Acts, 2000 (as amended) and Planning and Development Regulations, 2001 (S.I. No. 600 of 2001) (as amended).

Planning history:

16/1467 Frank Higgins, for the 1). Demolition of an agricultural shed and 2). Construction of a dwelling house, garage, treatment unit and all associated services. (Gross floor space of proposed works: 212.3 sqm. demolition 288sqm) **Refused**

17/567 Frank Higgins, for development consisting of: 1). The demolition of an agricultural shed and 2). Construction of a dwelling house, garage, treatment unit and all associated services. (Gross floor space of demolition works: 288 sqm; Gross floor space of proposed works: 212.3 sqm.) **Incomplete Application**

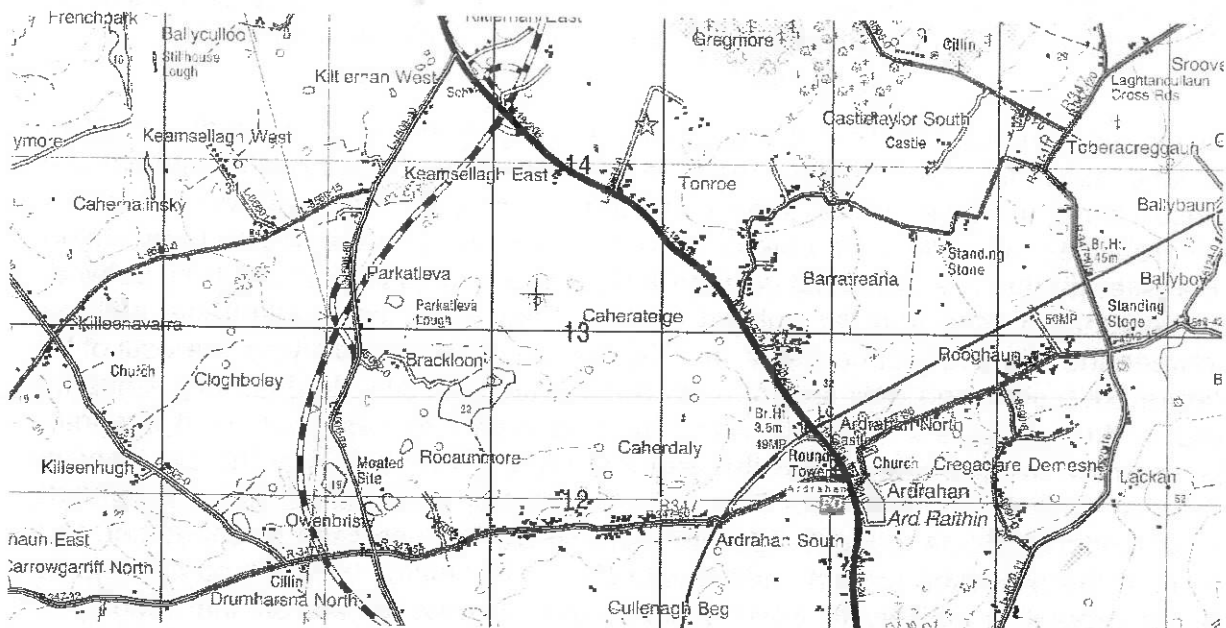
Enforcement

EN10-181: Unauthorised construction of workshop/storage building. Unauthorised use of building for the storage of machinery/building materials.

Galway County Development Plan, 2015-2021:

Landscape:

The site is located within a Class 1 designated rural landscape, which has a landscape sensitivity rating of 'Low'.



Appropriate Assessment:

The application site is located on a site outside any Natura 2000 site; however, it is situated within 15km of the following Natura 2000 sites (23):

- SAC:Sonnagh Bog SAC
- SAC:Lough Coy SAC
- SAC:Ardrahan Grassland SAC
- SAC:Kiltartan Cave (Coole) SAC
- SAC:Lough Cutra SAC
- SAC:East Burren Complex SAC
- SAC:Peterswell Turlough SAC
- SAC:Caherglassaun Turlough SAC

- SAC:Coole-Garryland Complex SAC
- SAC:Galway Bay Complex SAC
- SAC:Lough Fingall Complex SAC
- SAC:Kiltiernan Turlough SAC
- SAC:Carrowbaun, Newhall and Ballylee Turloughs SAC
- SAC:Cahermore Turlough SAC
- SAC:Ballinduff Turlough SAC
- SAC:Rahasane Turlough SAC
- SAC:Castletaylor Complex SAC
- SPA:Inner Galway Bay SPA
- SPA:Lough Cutra SPA
- SPA:Slieve Aughty Mountains SPA
- SPA:Cregganna Marsh SPA
- SPA:Coole-Garryland SPA
- SPA:Rahasane Turlough SPA

The site is located circa 0.3km south west of Castletaylor Complex SAC (site code: 000242) and circa 0.3km south west of Castletaylor Complex Natural Heritage Area (site code: 000242) are designated European sites for rare and threatened flora and fauna (i.e. Natura 2000 network) protected under the EU Habitats Directive (92/43/EEC) & EU Birds Directive (79/409/EEC, as amended by Directive 2009/147/EC) and the European Communities (Natural Habitats) Regulations 1997, as amended by the European Communities (Birds and Natural Habitats) Regulations 2011 and part XAB of the Planning and Development, 2000 as amended.

Having regard to the nature and scale of the existing shed, the shed is a dry shed with no land spreading or effluent connection to the land, the qualifying interest and conservation objectives of the European sites within 15km of the site with associated vulnerabilities, and using the criteria of (i) distance between the site and any Natura 2000 site; (ii) the lack of habitat or hydrological/hydrogeological connectivity between the designated sites and the subject site as there would be a vulnerable pathway between the site and ground water; and (iii) the nature of the qualifying interests of the Natura 2000 sites and their lack of occurrence within the site, the Planning Authority, who is the competent authority with the responsible to carry out an Appropriate Assessment in accordance with the requirements of Article 6(3) of the EU Habitats Directive under Part XAB of the Planning and Development Act, 2000 (as amended), is satisfied that the need for an Appropriate Assessment has been screened out, as a result of the proposed project, individually or in combination with any other projects, as the project is unlikely to have a significant adverse impact on the integrity or conservation objectives on the above named Natura 2000 sites within 15km of the application site.

Scope of works:

Nature of the development.

The existing shed comes within the scope of 'works' as defined by the 2000 Act. As such, the shed is 'development' for the purposes of the legislation. In the first instance, it is consistent with 'Class 9' of Schedule 2 Part 3 of the 2001 Planning and Development Regulations, as amended, and is also consistent with the conditions/limitations of that class, as set out in the schedule, in that:

- The shed is for agriculture purposes i.e. the shed is not for the housing of animals or storage of effluent.
 - The structure as proposed is the only such structure on the site within the scope of Class 9 and would not exceed 900 square metres i.e. This such structure has a stated floor area of 288 sq. m. and there are no other such structures on the site.
 - The proposed structure is sited in excess of 10m from the public road (circa 30.3m.)
 - The proposed structure is not in excess of 8m. in height (8.0m.).
-

Opinion:

Having regard to the above, in particular the nature of the proposed works in conjunction with the Sections 2, 3, 4(1)(h) & 4(4) of the Planning and Development Act 2000 (as amended) and Articles 9(1) (a) (vi),(vii), (viiB) & (viiC) of the Planning and Development Regulations 2001 (as amended), it is considered that the development would constitute development under Section 3 of the Planning and Development Act 2000 (as amended).

Having considered the size and nature of the structure, I am of the opinion that the shed is not being used for agricultural purposes and does fall within 'Class 9' of Schedule 2 Part 3 of the 2001 Planning and Development Regulations, the existing shed is therefore considered to be not exempted development as per the criteria set out in Class 9' of Schedule 2 Part 3 of the 2001 Planning and Development Regulations, by reason of Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended)

Recommendation:

The Planning Authority, in considering this Section 5 application, had regard particularly to

- (a) The definition of "works" set out in Section 2 of the Planning and Development Act 2000 (as amended).
- (b) The definition of "development" set out in Section 3 of said Planning and Development Act.
- (c) Section (3) of said Planning and Development Act.
- (d) Section 4 (1) (h) & (4) of said Planning and Development Acts.
- (e) Article 6(1) of said Planning and Development Regulations.
- (f) Article 9(1)(a) subsections (i), (vi), (vii), (viiB) & (viiC) of said Planning and Development Regulations.
- (g) Class 9' of Schedule 2 Part 3 of the 2001 Planning and Development Regulations.
- (h) Documents submitted from the referrer in this Section 5 application.
- (i) Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended)

The Planning Authority, in exercise of the powers conferred on it by Section 5 of the 2000 Planning Act (as amended), hereby decides that:

The existing agricultural shed of approximately 288 sq.m at Tonroe, Ardrahan, County Galway is development and is **not exempted development** under 'Class 9' of Schedule 2 Part 3 of the 2001 Planning and Development Regulations.

 HSE 30/07/18

Signed By: James Russell, A/Senior Executive Planner

Director's/Manager's Recommendation

Decided By: Eileen Ruane, Director of Services