



An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

AN BORD PLEANÁLA
TIME _____ BY Reg
22 AUG 2018
LTR DATER _____ FROM sm
PL WDG.007792-18

21st August 2018

Re: Galway Co Council Planning Ref: ED 17/52
Exemption for Agricultural Shed


AN BORD PLEANÁLA
Received: 22/8/18
Fee: €220 cheque
Receipt No: _____

A Chara,

Please find enclosed an Appeal to a Refusal by Galway Co Council of a Declaration of Exempted Development under Section 5 of the Planning and Development Act 2000(Ref No. ED 17/52) on behalf of our client Mr. Frank Higgins, Tonroe, Ardrahan, Co. Galway. Please find attached the appropriate fee of €220.

Should you require any further information, please do not hesitate to contact this office.

Mise le Meas,


Des Glynn B.Sc. Arch.T.
Grealish Glynn & Associates



Client

Frank Higgins

Proposed Development

Exemption for Agricultural Shed

Address of Development

Tonroe, Ardrahn, Co. Galway

Address of Appellant

Ardrahan, Co. Galway

Ref. No. In Planning Register of Galway City Council

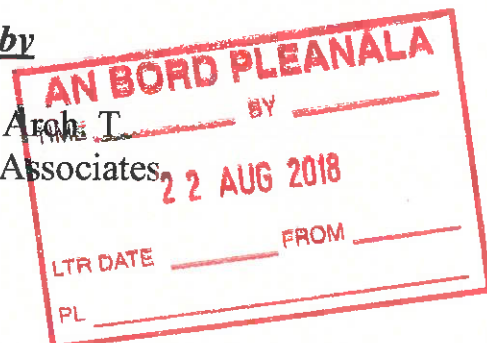
ED17/52

Date

21st August 2018

Prepared by

Des Glynn BSc. Arch. T.
Grealish Glynn & Associates



This appeal consists of

Chapter 1 - Introduction

Chapter 2 - Reasons for Refusal

Chapter 3 - Assessment

Chapter 4 - Arguments against Refusal

Chapter 5 - Conclusions

Appendix - Containing a list of attachments and documents to support this appeal

1. Introduction

After receiving details of the Refusal for my client Mr. Frank Higgins, we judged that Galway County Council has dealt with this application unfairly. We have been instructed to prepare an appeal on this decision to An Bord Pleanála. I hope that the following information will lead you to making a just and speedy decision in relation to this matter.

2. Reasons for Refusal

Galway County Council have vaguely outlined Sections of the Planning and Development Act which they believe make this development unauthorised. They have failed to pinpoint any exact reason for refusal. The Application was lodged on the 20th of December 2017 and was not dealt with until the 31st of July 2018 after numerous requests from the client.

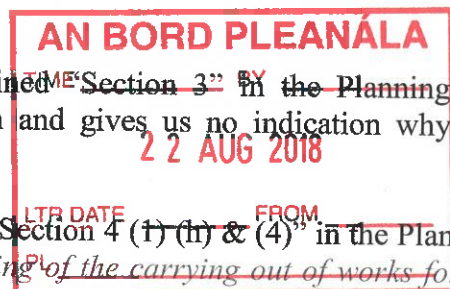
3. Arguments against Refusal

The County Council in Item A of the Refusal has outlined the definition of the work "works" in Section 2 of the Planning and Development Act. Which states "*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. I failed to see how this is any relevance to this Exemption Certificate.

The County Council in Item B of the Refusal has outlined the definition of the work "development" in Section 3 of the Planning and Development Act. Which states "*Development*" 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. (2) For the purposes of subsection (1) and without prejudice to the generality of that subsection— (a) where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or (b) where land becomes used for any of the following purposes – (i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods (ii) the storage of caravans or tents, or (iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders' waste, rubbish or debris the use of the land shall be taken as having materially changed (3) For the avoidance of doubt, it is hereby declared that, for the purposes of this section, the use as two or more dwellings of any house previously used as a single dwelling involves a material change in the use of the structure and of each part thereof which is so used (h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures (4) The Minister may, in connection with the Council Directive, prescribe development or classes of development which, notwithstanding subsection (1)(a), shall not be exempted development. Again I fail to see how this is any relevance to the refusal of this application.

The County Council in Item C of the Refusal has outlined "~~Section 3~~" in the Planning and Development Act. Again this is vague in its description and gives us no indication why this application was refused.

The County Council in Item D of the Refusal has outlined "~~Section 4 (1) (h) & (4)~~" in the Planning and Development Act. Which states "*development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the*



interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

(4) The Minister may, in connection with the Council Directive, prescribe development or classes of development which, notwithstanding subsection (1)(a), shall not be exempted development.

Again these two sections has not relevance to this application.

The County Council in Item E of the Refusal has outlined "Article 6(1) of the Planning and Development Regulations. Which states "6. (1) Subject to article 9, development of a class specified in column 1 of Part 1 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 1 opposite the mention of that class in the said column 1".

Again this section has no relevance to this application.

The County Council in Item F of the Refusal has outlined "Article 9(1)(a) subsections (i) (vi) (vii) (viiB) & (viiC) of the Planning and Development Regulations. Which states "9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act— (a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act, - No other permission relates to this site

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

This is a Class 1 Landscape and there is no special features in the vicinity. There is a large quarry to the east of the site and the new M18 motorway has a major junction and bridge to the west of the site.

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

This has no relevance to the application.

(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,

There is nothing to suggest that this development would require an appropriate assessment. There are no ecological features in the near vicinity. This is an agricultural development which is common place in rural areas. Again there is a quarry to the east and a major junction and over pass to the west of the site. The planning authority are using this as means of a refusal without any evidence. There is no source, pathway, receptor link associated with this development.

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000

There is nothing to suggest that this development would require an appropriate assessment. There are no ecological features in the near vicinity. This is an agricultural development which is common place in rural areas. Again there is a quarry to the east and a major junction and over pass to the west of the site. The planning authority are using this as means of a refusal without any evidence. There is no source, pathway, receptor link associated with this development.

The County Council in Item G of the Refusal has outlined "Class 9 of Schedule 2 Part 3 of the Planning and Development Regulations. The Applicant proved with his submission that this was a Class 9 development.

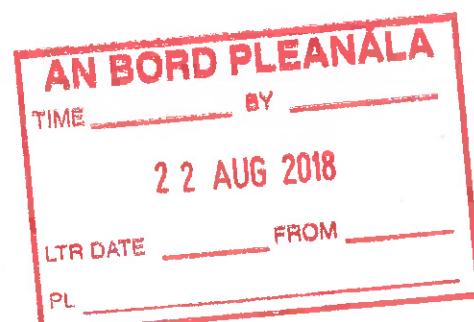
The County Council in Item H of the Refusal has outlined "Section 5 application. (i) Article 9(1)(a)(viii) of the Planning and Development Regulations 2001. Which states "*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use*".

This application is not unauthorized development and we have proven that the development is a Class 9 structure.

4. Assessment

The existing shed is exempt as a CLASS 9 agricultural shed as:

- The works consist of the provision of an agricultural store shed and having a gross floor space not exceeding 300 square metres. This existing is 284 square metres.
- The structure shall not be used for any purpose other than the purpose of agriculture or forestry, and shall not be used for the housing of animals or the storing of effluent. The shed is used for storing hay, straw, feed and agricultural machinery.
- The gross floor space of the 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. There are no other structures within 100 metres of the development.
- The structure is located more than 10 metres from the public road. This shed is located 30 metres from the road.
- The structure shall not exceed 8 metres in height. The structure is 8 metres in height.
- The structure is not situated within 100 metres of any house 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.
- No unpainted metal sheeting is used for roofing or on the external finish of the structure
- The site is located in a Class 1 Landscape sensitivity in the current Galway County Development Plan.



5. Conclusions

We seek that An Bord Pleanála to grant permission on the grounds that:

1. The applicant has been treated unfairly by Galway County Council who did not deal with this application in a reasonable time frame or give detailed reasons why the development was not exempt.
2. This development has very limited potential for environmental pollution as there is no source, pathway or receptor.
3. The shed is in a Class 1 area in the current County Development Plan.

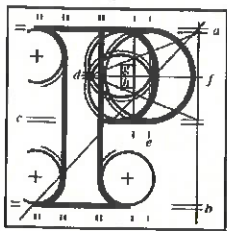
Appendix

Attachments

1. Cover Letter
2. Copy of Refusal ED 17/52
3. Appeal supporting documentation.
4. Fee €220


Des Glynn B.Sc. Arch.T.
Grealish Glynn & Associates





An
Bord
Pleanála

Planning Appeal Check List

(Please read notes overleaf before completing)

1. The appeal must be in writing (e.g. not made by electronic means).

2. State the

name of the appellant
(not care of agent)

Frank Higgins

address of the
appellant
(not care of agent)

Ardrahan, Co. Galway

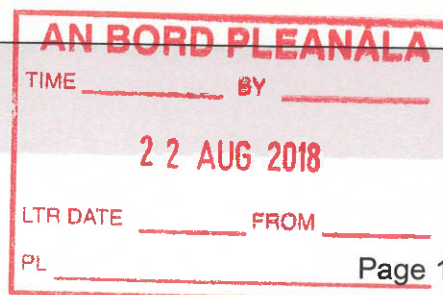
3. If an agent is involved, state the

name of the agent

Grealish Glynn & Associates

address of the agent

1 The Punchbowl
Ennis Road
Gort
Co. Galway



4. State the Subject Matter of the Appeal*

Brief description of the development

Appeal on the Refusal of a Declaration of Exempted Development under Section 5 of the Planning and Development Act 2000

Location of the development

Tonroe, Ardrahan, Co. Galway

Name of planning authority

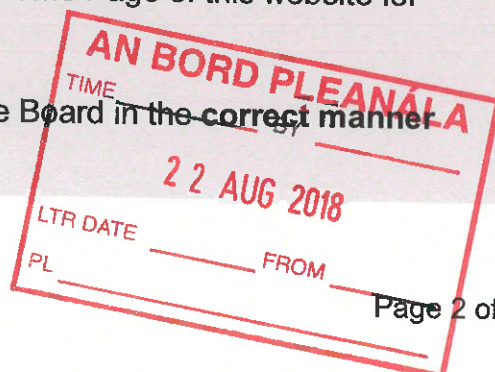
Galway County Council

Planning authority register reference number

ED 17/52

* Alternatively, enclose a copy of the decision of the planning authority as the statement of the Subject Matter of the Appeal.

5. Attach, in full, the grounds of appeal and the reasons, considerations and arguments on which they are based.
6. Attach the acknowledgement by the planning authority of receipt of your submission or observations to that authority in respect of the planning application, the subject of this appeal. (Not applicable where the appellant is the applicant).
7. Enclose / Pay the correct fee for the appeal and, if requesting an oral hearing of same, the fee for that request see "[Guide to Fees Payable](#)" under heading of Making an Appeal on Home Page of this website for current fees.
8. Ensure that the appeal is received by the Board in the correct manner and in time.



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

Áras an Chontae,
Prospect Hill, Galway.
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www.galway.ie

@GalwayCoCo
GalwayCounty



cm- ED 17/52

Comhairle Chontae na Gaillimhe
Galway County Council

31st July 2018

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& Seirbhísí Ginearálta
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Frank Higgins
c/o Grealish Glynn & Associates
1 The Punchbowl
Ennis Road
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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)

Áras an Chnoc na Rá, Gaillimh.
H91 H6KX.

Áras an Chontae,
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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


PP. **James Russell**

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

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Department of
**Agriculture,
Food and the Marine**
An Roinn
**Talmhaíochta,
Bia agus Mara**

091-507600
091-566148 (Fax)

District Veterinary Office,
Department of Agriculture Food and
the Marine,
Áras An tSáile
Lakeshore Drive
Renmore
Galway

14/10/2013

Frank Higgins
Ardrahan
Co. Galway

Re: New Flock number: G309056 5

A Chara,

With reference to the above I wish to inform you that Flock number G309056 5 is now registered to show the following

Herd Keeper: Frank Higgins
Herd Owner: Frank Higgins and Margaret Higgins

Le Meas,


Sabina Byrne.



