



OCFPM

DUBLIN - CORK - LONDON

Head Office: Unit 19, Charleville Town Centre, Charleville, Co. Cork
Tel: 00353(0)63 30917 **Web:** www.ocfpm.com **E-mail:** info@ocfpm.com

Grounds for Appeal

01/10/2019

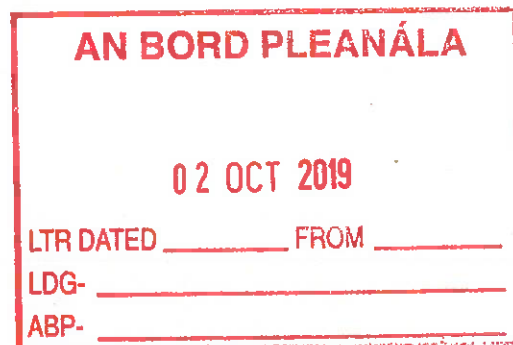
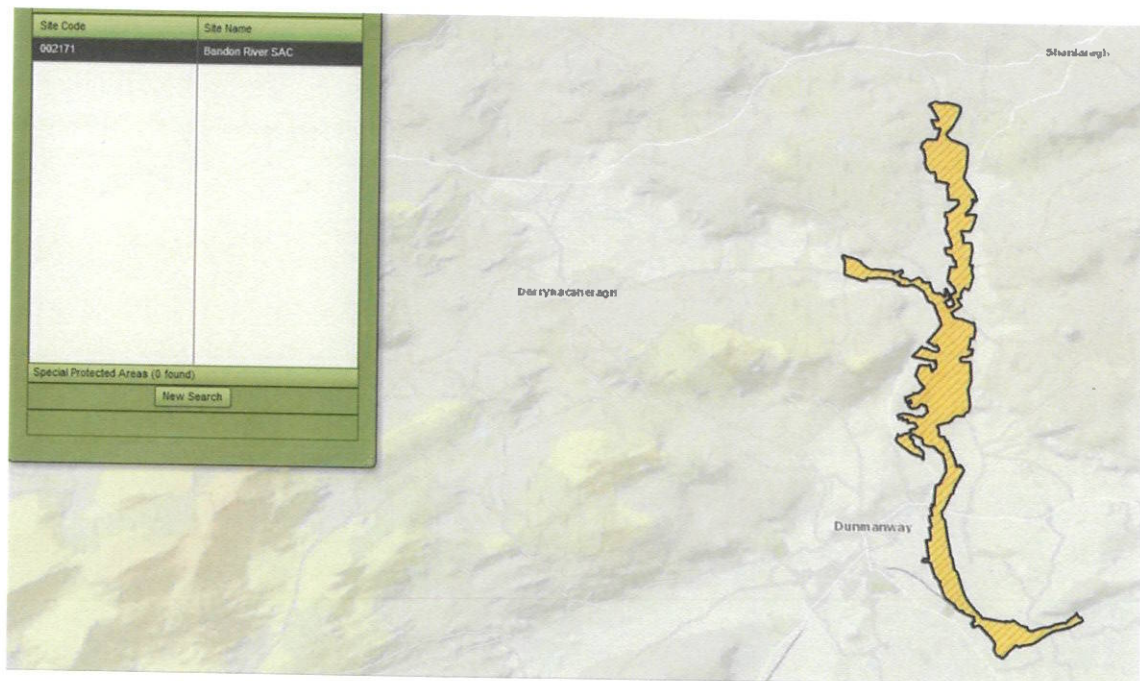
AN BORD PLEANÁLA	
LDG-	<u>019564-19</u>
ABP-	_____
02 OCT 2019	
Fee: €	<u>220</u> Type: <u>CHO</u>
Time: _____	By: <u>Reg Post</u>

Following the refusal of the Section 5 application REF. D/21/19 by Cork County Council we wish to make the following points contrary to the Council's decision.

The reason provided for the refusal by the Local Authority would indicate that these works would comprise of 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 is likely to have a significant effect on the integrity of a European Site.

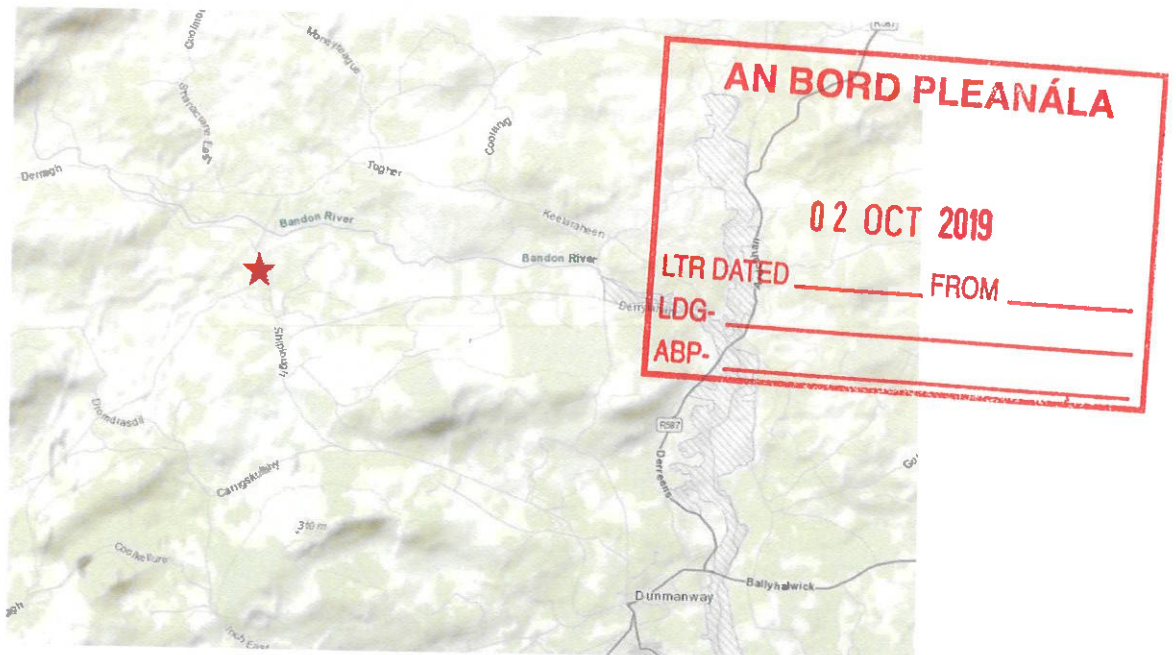
In this regard, I would point out the following;

- (a) Upon review of the European Sites in the area, it was found that there is one European Site within the vicinity of the proposed development, the Bandon River SAC and same appears to be approx. 5km away from the proposed development.



SITECODE	SITE NAME	HAB CODE	HABITAT NAME	REPRESENT ATIVITY	RELATIVE SURFACE	CONSERVATION	GLOBAL	DATE
IE0002171	Bandon River SAC	91E0	Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, <i>Salicion albae</i>)	B	B	B	B	23/05/2016
IE0002171	Bandon River SAC	3260	Water courses of plain to montane levels with the <i>Ranunculum fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation	A	C	B	B	23/05/2016

- (b) The following map indicates the proposed site in relation to the Bandon River SAC (the site is marked with a red star). The shortest distance from the site to the SAC, as the crow flies is in excess of 4km and if one was to follow the river course, the distance would be in excess of 6km.



- (c) The proposed Agricultural Shed is within the required size limits stated in Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) and furthermore it complies with the all the restrictors for the above-mentioned Class. It should also be noted that the proposed shed is strictly for the storage of materials that will be ancillary to the agricultural land surrounding same and will not include any form of appliance that will lead to the discharging of effluent or other waste into the adjoining river nor will it be used for the storage of any livestock. We believe that, once constructed the shed will not overshadow the site around same and due to the

fact that the site is situated at a lower level from the public road, the proposed development will cause minimal visual obstruction from the adjoining public roads.

- (d) As there is currently no shed, structure or covering on the site at the moment, this shed will provide a much-needed sheltered area for the storage of farming equipment which will in turn lead to a more practical way of farming for the owner of same.
- (e) As the proposed development consists of only an agricultural shed and that same falls under the restrictions set out in Class 9 of Part 3 of Schedule 2 of the Planning and Development Act 2001 (as amended), we believe that the applicant should not be subject to the ordeal of the planning application process.
- (f) File case, An Bord Pleanála ref. 03.RL.3053 has similar characteristics to our subject development and situation. From this decision, it is believed that our proposed development could also be classified as exempted development.
- This application was for a similar structure which was also on farmlands;
 - This application was also for a structure that falls under the same exemption Class as our proposed development; &
 - This application is located much closer to a SAC / SPA than our proposed development.

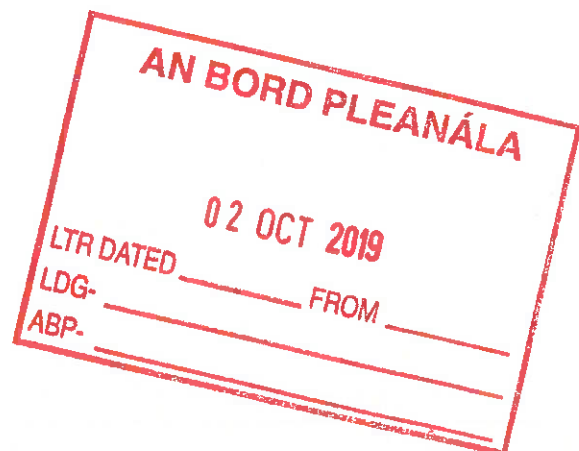
Based on the scale of the works to be carried out and the distance to the nearest SAC, it is not accepted that such works would not necessitate an appropriate assessment and we do not agree how the proposed development works would be "likely to have a significant effect on the integrity of a European Site".

We thank you for your consideration of this appeal and look forward to hearing from you in the near future.

Kind Regards,



Chris Quill BSc (Hons), MCABE
OCFPM Ltd.
cquill@ocfpm.com
086 0100514



Comhairle Contae Chorcaí Cork County Council

Rannóg Pleanála, Teach Norton,
Bóthar Chorcaí, An Sciobairín,
Co. Chorcaí P81 AT28.
Fón: (028) 40340 • Faics (028) 21660
Suíomh Greasáin: www.corkcoco.ie
Planning Section, Norton House,
Cork Road, Skibbereen,
Co. Cork P81 AT28.
Tel: (028) 40340 • Fax: (028) 21660
Web: www.corkcoco.ie



Mr. Chris Quill,
OCFPM Ltd.,
Unit 19, Charleville Town Centre,
Charleville,
Co. Cork.

16th September, 2019.

Our Ref: D/21/19

RE/ Declaration of Exempted Development under Section 5 of the Planning & Development Act, 2000, as amended.

Dear Sir,

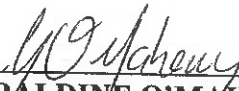
On the basis of the information and plans submitted by you on 20th August, 2019, on behalf of Mr. Declan White, the Planning Authority declares that the construction of agricultural shed on lands located at Derrinacahara, Dunmanway, Co. Cork is development and is **not exempted** development under Class 9 of Part 3 of Schedule 2 of the Planning & Development Regulations 2001, as amended.

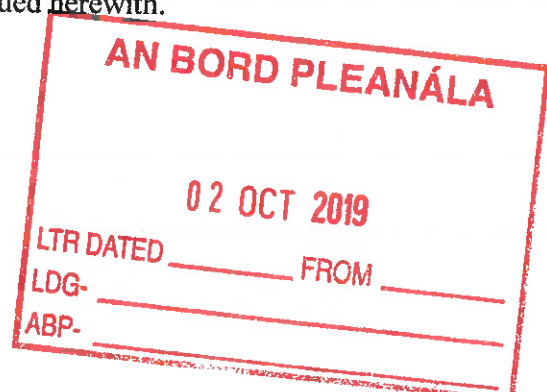
The proposed development would comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site. As such, the proposed development is subject to the restrictions on exemption as set down in Article 9(1)(a)(viiB) of the Planning & Development Regulations, 2001, as amended.

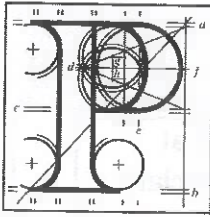
Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Receipt No. WCP7584, in respect of €80.00 fee, is issued herewith.

Yours faithfully,


GERALDINE O'MAHONY
SENIOR PLANNER





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)

Mr Declan White

address of the
appellant
(not care of agent)

Maulagh,
Dunmanway,
Co. Cork.

3. If an agent is involved, state the

name of the agent

OCFPM

address of the agent

Unit 19 Charleville Town Centre,
Charleville,
Co. Cork.

AN BORD PLEANÁLA

02 OCT 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

4. State the Subject Matter of the Appeal*

Brief description of the development

The construction of an Agricultural Shed to the lands located at Derrinachara, Dunmanway, Co. Cork which are owned by Declan White (Folio CK177036F) and all associated site works.

Location of the development

Derrinachara,
Dunmanway,
Co. Cork.

Name of planning authority

Cork County Council

Planning authority register reference number

D/21/19

* 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.

AN BORD PLEANALA
02 OCT 2019
LTR DATED _____ FROM _____
LDG. _____
ABP. _____

A format similar to pages one and two may also be used where a person is making submissions or observations on an appeal in accordance with section 130 of the Planning and Development Act 2000, as amended. Substitute 'observer' for 'appellant' and 'submission / observation' for 'appeal' at each reference. Item 6 and that part of 7 concerning an oral hearing request are not applicable to the making of submissions or observations

Notes (See Check List beginning on page one)

1. Rules for Making Appeals

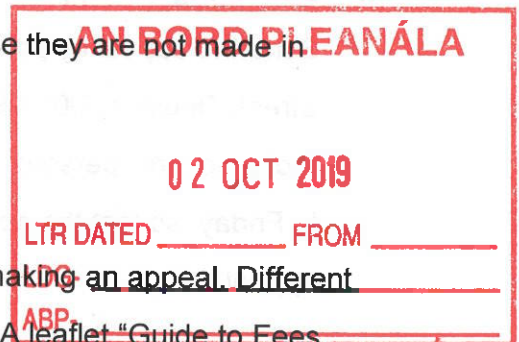
You are advised to check the latest version of "A Guide to Making a Planning Appeal" issued by the Board. It is available from the Board, telephone (01) 858 8100 and on our website www.pleanala.ie. It may also be available from your planning authority.

A significant number of appeals are invalid because they are not made in accordance with the statutory rules.

2. Appeal Fees

You are advised to check the appropriate fee for making an appeal. Different fees apply depending on the nature of the appeal. A leaflet "Guide to Fees payable to the Board" is available from the Board, telephone (01) 858 8100 and on our website www.pleanala.ie. It may also be available from your planning authority. Note that appeal fees may change from time to time.

A significant number of appeals are invalid either because no fee or an incorrect fee is included.



3. Time Limits

The time limit for making an appeal is, except where the appeal is made following a successful application for leave to appeal, four weeks beginning on the date of the planning authority decision (not the day it is sent or received). Day one is the day the planning authority decision is made. For example, if the decision of a planning authority is made on **Wednesday 2nd** of a month, the last day for receipt of the appeal is **Tuesday 29th** of the same month, NOT Wednesday 30th. There are special rules where the last day falls on a day the Board's offices are closed or where the appeal period falls over the Christmas / New Year period. See calendar facility on the Board's home page.

A significant number of appeals are invalid because they are late – sometimes, just one day late.

4. Delivering the Appeal

Send the appeal by post to The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1, D01 V902 or, deliver it by hand, to an employee of the Board (not a security person), during office hours (9.15 a.m. to 5.30 p.m.) on Monday to Friday, so that the appeal reaches the Board by the last day for making an appeal.

Do not place the appeal in the Board's letterbox. A significant number of appeals are invalid because they are incorrectly delivered.

5. Completeness

The appeal must be fully complete from the start. You are not permitted to submit any part of it at a later time, even within the time limit. Neither are you permitted to clarify, elaborate or make further submissions either for the

purposes of complying with the rules for making an appeal or otherwise, unless invited by the Board.

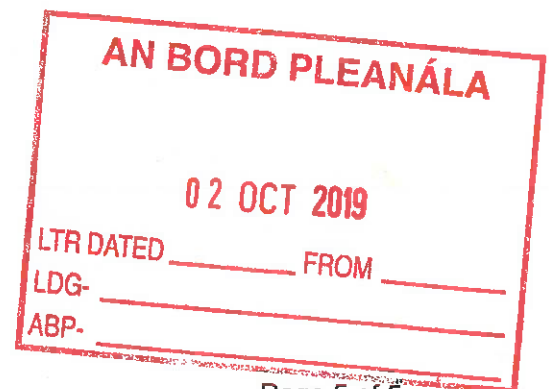
This document is issued as an aid to making a valid planning appeal to the Board. It may be used as a 'cover page' in making such an appeal but there is no legal or other requirement to do so. The document should be read in conjunction with the latest versions of the Board's publications "Guide to Making a Planning Appeal" and "Guide to Fees payable to the Board".

The guidance given in those leaflets and in this document also applies generally to the making of submissions and observations by 'observers' under section 130 of the 2000 Planning Act. A significant number of submissions and observations by 'observers' are also invalid because the appropriate rules are not observed.

This document does not purport to be a legal interpretation of the law in relation to making a planning appeal – you should consult the appropriate legislation, including sections 37 and 127 of the Planning and Development Act 2000 for the statutory rules governing the making of appeals. (Section 130 for 'observers')

An appeal or a submission or observation on an appeal that is not made strictly in accordance with the statutory rules will be invalid. The Board has no discretion to relax or vary the rules. The onus is on YOU to meet all the legal requirements at the time you make the appeal / submission / observation.

Last updated: February 2017





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Planning Department,
Norton House,
Skibbereen,
Co. Cork.

Date: 19th August 2019

Job No.: HW 2006

Re: **Section 5 Application for a proposed Agricultural Shed to the lands located in Derrinacahara, Dunmanway, Co. Cork.**

To Whom it May Concern,

We, OCFPM Ltd (address and contact details can be found at the end of this letter), wish to apply for a Section 5 on behalf of Declan White for the following works;

- The construction of an Agricultural Shed to the lands located at Derrinacahara, Dunmanway, Co. Cork which are owned by Declan White (Folio CK177036F) and all associated site works.

For this development, please find enclosed the following items;

- 1 no. Proposed Agricultural Shed Floor Plan and Elevations (prepared by Clonakilty Engineering Ltd.) ✓
- 1 no. Proposed Location of the Agricultural Shed (prepared by Declan O'Shea B.Eng, MIEI) ✓
- 1 no. 25" Location Map ✓
- 1 no. 6" Location Map ✓
- 1 no. Cheque for €80.00

The proposed works on site will include the following;

- The construction of the said agricultural shed on the lands

All proposed works to be carried out are contained wholly within the boundaries as delineated by Folio CK177036F.

We are applying for this Section 5 because we believe that the construction of the said agricultural shed at this location falls under the following exemption:

- Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).



11 OCT 2019

CLASS 9

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.

Conditions & Limitations of Class 9:

- 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.

Response – the proposed shed is to be used solely for the storage of farm machinery & equipment, fencing materials and hay straw.

- 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.

Response – the proposed shed will be the only structure on the proposed lands and therefore will be below the 900m² floor space allowance.

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

Response – the proposed structure will be approx. 83m from the nearest public road. See image below for same.

Ref No
Planning (West) Department
20 AUG 2019



Cork County Council
 Main House, Skibbereen,
 Co. Cork

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

Response – the proposed height of the shed is to be 8m (as per the attached drawing).

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.*

Response – the closest structure to the proposed shed is a dwelling house and same is approx. 170m from the proposed shed. See image below which indicates same.



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

Response – the proposed shed will be finished with painted metal sheeting and there will be no unpainted metal sheets on the completed structure.


Reg. No. _____
Planning (West) Department
20 AUG 2019
Cork County Council
Cork City Council

We hope that all of the above information and the attached documents are to your satisfaction. We thank you for your consideration of this application for a Section 5 and we look forward to hearing from you in relation to the above.

If you should have further queries in relation to this application, please do not hesitate to contact me or the main OCFPM office.

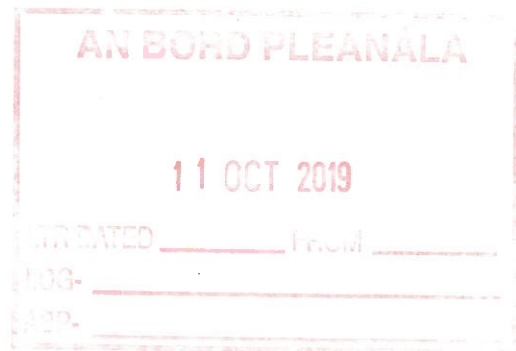
11 OCT 2019
LTR DATED _____ FROM _____
LDG- _____
APP- _____

Yours sincerely,



Chris Quill,
BSc (Hons), ACABE
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E-mail: cquill@ocfpm.com

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21