

Abaigéal Smyth  
114 Wesbury, Stillorgan, Co. Dublin  
Campaigning for a better environment

The Secretary,  
An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1 D01 V902

2<sup>nd</sup> September 2021

Re: Referral of Section 5 Declaration by Galway County Council, in relation to past and ongoing tipping of C&D material at Addragool/Na Tuairini, Moycullen, re ED21/64

Dear Sir,

**Section 5 Application Details**

The application details are as follows:

Planning Authority:	Galway County Council
Planning Authority Reference Number:	ED21/64
Date of application:	16 <sup>th</sup> July 2021
Date of Decision to Grant:	Calculated last date 12/8/21, Decision dated 16/8/21
Fee Enclosed:	Section 5 Referral Fee - 220 euro

**Submission**

On 16<sup>th</sup> August 2021, Galway County Council declared that the development, past and ongoing, at the above address was unauthorised and would require permission. All relevant documents are enclosed. While the outcome was correct in principle, the decision was flawed for the following reasons:

- (i) The decision of Galway County Council was made 3 days after the last date for making the decision – this leaves the decision legally flawed for the purposes of enforcement action. Consequently, I am referring the application to An Bord Pleanála within the four week period from the correct last date for decision so that this legal flaw is corrected by the Board's decision.
- (ii) The decision of Galway County Council did not assess the need for EIA and/or NIA on this site; thus the submission in the application was disregarded with regard to relevant matters. In my opinion, one or both of these processes is required and, as such, the past and ongoing development cannot be regularised through Section 34, as such application is precluded under Section 34(12).
- (iii) The decision of Galway County Council, in the last paragraph, speaks to the 'proposed development' whereas this unauthorised development has been ongoing for years – the Board is requested to clearly address past as well as ongoing development in its decision.

Yours faithfully,



Abaigéal Smyth

And on behalf of Wild Ireland Defence CLG

<b>AN BORD PLEANÁLA</b>	
LDG-	043297-21
ABP-	
03 SEP 2021 o.k	
Fee: €	220 Type: cheque
Time:	By: Peg Post

Encls: (i) Section 5 Application; (ii) Galway C.C. Receipt; (iii) Galway C.C. Decision/Declaration.

Abaigéal Smyth  
114 Wesbury, Stillorgan, Co. Dublin  
*Campaigning for a better environment*

Enc. 1

**Administrative Officer,  
Planning Department,  
Galway County Council,  
County Buildings,  
Prospect Hill,  
Galway City**

14<sup>th</sup> July 2021

**Re: Section 5 – past and ongoing Construction & Demolition tipping at Addragool, Moycullen.**

Dear Sir or Madam,

I seek a declaration with regard to waste tipping, past and ongoing, taking place at the above site, see attached marked Google location map. This has been ongoing for a long time now. The Galway County Council Section 5 application form is attached as is the fee for 80 euro.

I call on you to make a declaration that this is not covered by a permission and is not exempt development. This development is in close proximity to an SAC and would require Stage 2 AA for any form of development and so, under Section 34(12) of the Planning and development Act (as amended), cannot be exempt development and does not have a waste facility permit.

The site is owned by a Mr. Padraic Curran and/or Gerard Curran.

Yours faithfully,

  
AN BORD PLEANÁLA  
DG-  
Abaigéal Smyth  
03 SEP 2021  
Fee: € \_\_\_\_\_  
Type: \_\_\_\_\_  
Name: \_\_\_\_\_  
By: \_\_\_\_\_

**Encls: Marked Google Site Location Maps**

**Cc Ian Lumley, An Taisce, Peter Sweetman, Sweetman & Associates., Wild Ireland Defence**

Iarratas ar dhearbhu maidir le  
forbairt dhíolmhaithe faoi Alt 5  
de Acht um Pleanáil agus  
Forbairt 2000



Comhairle Chontae na Gaillimhe  
Galway County Council

Application for Declaration of  
Exempted Development under  
Section 5 of the Planning and  
Development Act 2000

Tá an fhoirm seo le fáil i gcló mór chomh maith

This form is also available in large print

Tá míle fáilte an fhoirm seo a líonadh i nGaeilge

1. Mionsonraí faoin iarratasóir		1. Applicant details
Ainm	Name	ABAIGEAL SMYTH
Seoladh	Address	114 WESBURY STILLORGAN Co. DUBLIN
Cód Poist	Postcode	F35 X890
Teileafón	Telephone	_____
Ríomhphost	Email	ABAIGEALSMYTH@YAHOO.CO.UK

2. Mionsonraí faoin bhforbairt bheartaithe		2. Proposed development details
Tuairisc iomlán	Full description	PAST AND ONGOING DEPOSITION OF CONSTRUCTION AND DEMOLITION WASTE AT ADDRAGHOL, MOYCULLEN

Más méadú ar theach cónaithe atá i gceist, cuir isteach achair urláir	If an extension to a dwellinghouse, please include floor areas	
(i) méadú beartaithe	(i) Proposed extension	mcr/sqm
(ii) struchtúir reatha	(ii) Existing structure	mcr/sqm
(iii) spás oscailte príobháideach ar gcúl	(iii) Rear private open space	mcr/sqm

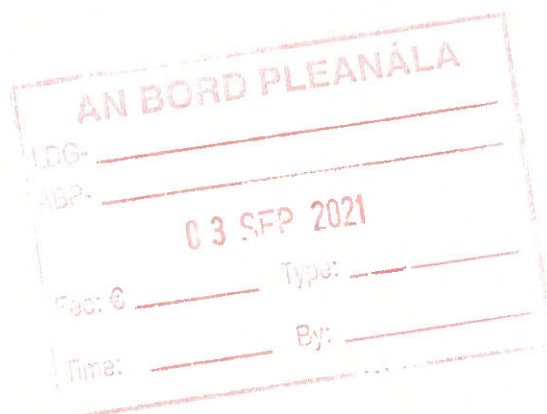
Más forbairt í a bhaineann le Garáiste/Bothán/Stóras etc a chur in airde, luaigh an méid seo a leanas, le do thoil:	If for the erection of Garage/Shed/Store etc., please include the following:	
(i) garáiste/bothán/stóras etc beartaithe	(i) Proposed garage/shed/store etc	mcr/sqm
(ii) struchtúir reatha	(ii) Existing structure	mcr/sqm
(iii) spás oscailte príobháideach ar gcúl	(iii) Rear private open space	mcr/sqm

I gcás aon foirgneamh /fhoirgnimh atá le coimeád ar an láithreán, nó i gcás athraithe ar úsáid na maoine	For any building(s) to be retained on site, or for a change of use of the property	
Léirigh an úsáid reatha	Please indicate the existing use	BACK GARDEN TO DWELLING HOUSE

Doiciméid atá le cur in éineacht leis an bhfoirm iarratais seo (cuir isteach tic (✓) le do thoil)	Documents to be included with this application form (please tick ✓)	
Léarsc de shuíomh an láithreáin Scála 1:1000 nó 1:2500	Site location map <del>scale</del> <del>1:1000 or 1:2500</del> <b>GOOGLE MAP</b>	<input checked="" type="checkbox"/>
Léarscáil de leagan amach an láithreáin Scála 1:200 nó 1:500	Site layout map Scale 1:200 or 1:500	<input type="checkbox"/>
Pleananna urláir & ingearchlónna	Floor plans & elevations	<input type="checkbox"/>
Táille (€80)	Fee (€80)	<input checked="" type="checkbox"/>

Dearbhaím leis seo go bhfuil an fhaisnéis a thugtar ar an bhfoirm seo ceart		I hereby declare that the information given on this form is correct
Síniú (iarratasóir/gníomhaire)	Signature (applicant/agent)	<i>Shaigeal Smyth</i>
Dáta	Date	14 <sup>TH</sup> July 2021

THE SITE IS OWNED BY ONE OR MORE PEOPLE CALLED CURRAN.



<b>Seol an fhoirm ar ais chuig:</b> <b>An tAonad Pleanála &amp; Forbartha</b> <b>Inmharthana</b> <b>Comhairle Chontae na Gaillimhe</b> <b>Áras an Chontae</b> <b>Cnoc na Radharc</b> <b>Gaillimh.</b>	<b>Return to:</b> <b>Planning &amp; Sustainable</b> <b>Development Unit</b> <b>Galway County Council</b> <b>Áras an Chontae</b> <b>Prospect Hill</b> <b>Galway</b>	<b>Tel. (091) 509308</b> <b>Fax (091) 509199</b> <a href="mailto:planning@galwaycoco.ie">planning@galwaycoco.ie</a> <a href="http://www.gaillimh.ie">www.gaillimh.ie</a> <a href="http://www.galway.ie">www.galway.ie</a>
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Google Maps Moycullen

TIP



Imagery ©2020 CNES / Airbus, Maxar Technologies, Map data ©2020 100 m



3 SEP 2021  
 Type: \_\_\_\_\_  
 By: \_\_\_\_\_

# Moycullen

Maigh Cuilinn  
 Killarainy  
 Co. Galway

Light rain showers · 11°C  
 11:20 AM

-   
Directions
-   
Save
-   
Nearby
-   
Send to your phone
-   
Share

## Photos

TIP



100: 6

Time:

Encl. 2



**Comhairle Chontae na Gaillimhe  
Galway County Council**

Abaigéal Smyth,  
114 Westbury,  
Stillorgan,  
Co. Dublin

19<sup>th</sup> July, 2021

**RE: Declaration of Exempted Development under section 5 of the Planning & Development Act 2000 – ED21/64**

**Description** – Waste tipping, past and ongoing – Adragool, Moycullen

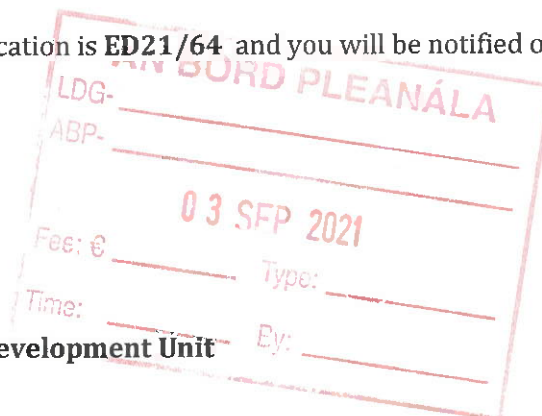
A Chara,

I refer to the above application which was received by this office on the 16<sup>th</sup> July, 2021.

The reference for this application is **ED21/64** and you will be notified of the decision in writing in due course.

Mise le meas

  
**Martina Rogers**  
Planning & Sustainable Development Unit



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](http://www.gaillimh.ie)  
[www.galway.ie](http://www.galway.ie)

@GalwayCoCo  
GalwayCounty

Seirbhísí Corparáideacha  
Corporate Services  
(091) 509 225  
[corpserv@galwaycoco.ie](mailto:corpserv@galwaycoco.ie)

Tithíocht  
Housing  
(091) 509 300  
[housing@galwaycoco.ie](mailto:housing@galwaycoco.ie)

Timpeallacht & Tréidliacht  
Environment & Veterinary  
(091) 509 510  
[environment@galwaycoco.ie](mailto:environment@galwaycoco.ie)

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

Acmhainní Daonna  
Human Resources  
(091) 509 303  
[hr@galwaycoco.ie](mailto:hr@galwaycoco.ie)

Mótarcháin  
Motor Taxation  
(091) 509 099  
[motortax@galwaycoco.ie](mailto:motortax@galwaycoco.ie)

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

Seirbhísí Uisce  
Water Services  
(091) 509 505  
[water@galwaycoco.ie](mailto:water@galwaycoco.ie)

Pobal & Fiontar  
Community & Enterprise  
(091) 509 521  
[community@galwaycoco.ie](mailto:community@galwaycoco.ie)

Pleanáil  
Planning  
(091) 509 308  
[planning@galwaycoco.ie](mailto:planning@galwaycoco.ie)

Leabharlann  
Library  
(091) 562 471  
[info@galwaylibrary.ie](mailto:info@galwaylibrary.ie)

Áras an Chontae,  
Cnoc na Radáir, Gaillimh.  
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(091) 509 225  
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Timpeallacht & Tréidliacht  
Environment & Veterinary  
(091) 509 510  
environment@galwaycoco.ie

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& Seirbhísí Ginearálta  
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hr@galwaycoco.ie

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(091) 509 099  
motortax@galwaycoco.ie

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(091) 509 310  
electors@galwaycoco.ie

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water@galwaycoco.ie

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

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

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



Our Ref: ED 21/64

Abaigéal Smyth,  
114 Westbury,  
Stillorgan,  
Co. Dublin

Comhairle Chontae na Gaillimhe  
Galway County Council

16<sup>th</sup> August, 2021

**RE: Declaration of Exempted Development under section 5 of the Planning & Development Act 2000**

**ED21/64 - Waste tipping, past and ongoing - Na Tuairíní, Maigh Cuilinn**

**DECISION - NOT EXEMPTED DEVELOPMENT**

A Chara,

I refer to the above application which was received by this office on the 16<sup>th</sup> July, 2021

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

- (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), (ii), (vi), (vi), (viiB) & (viiC) of said Planning and Development Regulations.
- (g) Documents submitted from the referrer in this Section 5 application.

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 deposition of construction and demolition waste at Na Tuairíní, Maigh Cuilinn, Co. Galway is development and is **not exempted development** under the 2001 Planning and Development Regulations. Reasons attached.

Please note that you may appeal this decision to An Bord Pleanála within four weeks of the issue of this declaration on payment of the prescribed fee.

Mise le meas

  
**Robert Lydon**  
Planning & Sustainable Development Unit

Encl.



Opinion:

Having regard to the above, 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) (ii), (iii), (vi), (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).

As there is no provision for deposition of construction and demolition waste in the Planning and Development Regulations 2001 (as amended) the proposed works of the deposition of construction and demolition waste is not exempt development and will require Planning permission from the Planning Authority."