

An
Bord
Pleanála

Planning Appeal Form

AN BORD PLEANÁLA

LDG- 051045 - 22

ABP- _____

08 APR 2022

Fee: € 220.00 Type: CHEQUE

Time: _____ By: REG. POST.

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Click or tap here to enter text.
PATRICIA BROWNE

(b) Address

Click or tap here to enter text.
CREEVE
DONAMON
CO ROSCOMMON
F42NX63

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Click or tap here to enter text.
N/A

(b) Agent's address

Click or tap here to enter text.
N/A

Postal address for letters

3. During the appeal we will post information and items to you or to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1

The agent at the address in Part 2

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Click or tap here to enter text.

ROSCOMMON COUNTY COUNCIL

(b) Planning authority register reference number

(for example: 18/0123)

Click or tap here to enter text.

(DED 07) DED/507

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Click or tap here to enter text.

LISSALWAX, CASTLEREA, CO ROSCOMMON

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

Please see attached reasons.

Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website. ✓ £220

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.

Yes, I wish to request an oral hearing

No, I do not wish to request an oral hearing

NALA has awarded this document its Plain English Mark

Last updated: April 2019.



An Bord Pleanála Appeal

Roscommon County Council DED 507

a) Appellant Name: Dr Patricia Browne

b) Appellant Address: Creeve, Donamon, Co Roscommon, F42NX63.

c) Subject Matter of Appeal: DED 507 - I am making an appeal to An Bord Pleanála regarding the installing of two new gates and therefore updating the entrances on my property by law.

d) Grounds of Appeal: If Roscommon County Council requires 80 euro for each gate (if this qualifies as a structure) that can be facilitated by me as the law stipulates it is €80 per structure. A structure is defined as a 'complex construction' by Collins English Dictionary ISBN 978-0-00-778980-1 2006. I do not consider a gate as a *complex construction* especially when it is replacing one that is already there. This is not clear on the Section 5 Exempted Developments application form and I was not aware of this fee requirement at the time of application. 80 euro had been previously paid in a previous application and although it was then rejected, I don't know if the parties who paid on my behalf were refunded that fee. I was not refunded it nor sought it to be refunded to me. It was an incomplete application but there was no time given to provide additional documents by either Roscommon County Council or the Engineering company by me. I was duped and misrepresented by both entities. This has been vindicated somewhat in the local district court and a judgement document has been issued which I enclose. I have had some reservations about the process and I have asked the ombudsman to review and examine my concerns.

The Office of the planning regulator states in Planning Leaflet 9 issued in January 2021 '*Much agricultural development, especially uses of land for agricultural purposes, is exempt*'.

If the legislation does not permit An Bord Pleanála to overturn the decision made by Roscommon County Council in 2022 then both of these entities are breaching my rights within the current constitution. They are further going against the states general duty to protect my right to work and earn a livelihood from unjust attack. The response to my complaint about the planning process from Roscommon County Council in 2021 was an example of an unjust attack in one main phrase and meaning which I highlight in the attached documents. The planner's report is again not clear enough and does not show the relevance of the legislation to my proposed installing of two new gates and improving the entrances to agriculture land for agricultural purposes only. The width of the road makes it even more necessary to be able to access the lands quickly and in a safe manner and should not be delayed any further by bureaucracy due to the road facilitating greater speed of traffic. The planners decision is possibly placing me and the public in danger for longer though I am making sure this risk is minimal but this is at a cost to myself and I want it to end.

I am a legal heir to these lands more than anyone else and include many documents which show this right. The gates are necessary for the continued safe and practical use of my land. From it I derive a necessary income to live. If I have to pay thousands/hundreds in getting paperwork through solicitors and/or local authority on a continuous basis then I cannot earn an income. I do not use brown envelopes or favours or develop personal relationships to get through the system though there should be no need for this from my reading of the legislation. It is only personal jealousies, greed and begrudgery that facilitates these requirements in liaising with local authorities.

I have a responsibility to my mother now to care for her and she is a full-time wheelchair user in her own home since Dec 2020 and has poor health since having a stroke in July 2014. The Constitution specifically recognises and protects the right to life under Article 40.4. This life in addition to my mother's life and care must be protected now and into the future.



Comhairle Contae
Ros Comáin
Roscommon
County Council



Dr. Patricia Browne,
Creeve,
Donamon
Co. Roscommon.

Date: 16/02/2022
Planning Reference: DED 507

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.
Development – New wider gates x2 - No. 1 8 ft. to 12 ft. and No. 2 8ft to 12ft at Lissalway, Co. Roscommon.

A Chara,

I wish to acknowledge receipt of your application received on the 15th February, 2022, for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development along with the appropriate fee in the sum of €80.00 Receipt No. L01/0/215537 dated 15/02/2022 refers.

Note: Please note your Planning Reference No. is **DED 507**.
This should be quoted in all correspondence and telephone queries.

Mise le meas,

Mary Dolan,
Administrative Officer, Planning.

ROSCOMMON COUNTY COUNCIL
PLANNING AND DEVELOPMENT ACT, 2000 (as amended)
SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
NOTIFICATION OF DECISION

REGISTERED POST

Dr. Patricia Browne,
Creeve,
Donamon,
Co. Roscommon.

Reference Number:

DED 507

Application Received:

15th February, 2022

WHEREAS a question has arisen as to whether works consisting of new wider gates x 2 (No. 1 8ft to 12ft and No. 2 8ft to 15ft) at Lissalway, Co. Roscommon is or is not development or is or is not exempted development.

AND WHEREAS Roscommon County Council, in considering this application, had regard particularly to:

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act 2000, (as amended).
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, (as amended).
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Act 2000, (as amended).
- (d) The planning history of the site.

AND WHEREAS Roscommon County Council has concluded that:

- (a) The proposed development constitutes development as defined in the Planning & Development Act 2000, (as amended) and associated Regulations;
- (b) The proposed development is not exempted development as defined in the Planning & Development Act 2000(as amended) and associated Regulations.
- (c) The proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the requirement for AA or EIAR does not apply with respect to the proposed development.

NOW THEREFORE:

By virtue of the powers vested in me by the Local Government Acts 1925 – 2019 and Section 5(2)(a) of the Planning and Development Act 2000 (as amended) and, having considered the various submissions and reports in connection with the application described above, it is hereby declared that the said works consisting of new wider gates x 2 (No. 1 8ft to 12ft and No. 2 8ft to 15ft) at Lissalway, Co. Roscommon constitutes development that is not exempted development as defined within the Planning and Development Act 2000 (as amended) and associated Regulations.

Any person issued with a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended) may, on payment to An Bord Pleanála of the prescribed fee, refer a Declaration for review within 4 weeks of the date of the issuing of the Declaration.

Signed on behalf of the Council:


Administrative Officer,
Planning.

Date: 14th March, 2022

Roscommon County Council
Aras an Chontae
Roscommon
D9086 37100

15/02/2022 12:12:28

Receipt No. : L01/0/215537

DR. PATRICIA BROWNE
CREVE
DONAMON
CO ROSCOMMON

PLANNING APPLICATION FEES 80.00
GOODS 80.00
VAT Exempt/Non-vatable
DE507

Total : 80.00 EUR

Tendered :
Postal Order 80.00
448215

Change : 0.00

Issued By : Jackie Keegan
From : Central Cash Office

Comhairle Chontae Ros Comáin Roscommon County Council

50646

Folio Cash Book: RECEIPT:
RECEIVED from Patricia Browne
of
the sum of two Euro Cent
by way of CASH, being amount due
for Planning- photocopying
Dated this 05 day of April 2022
(Signature) J Keegan
€ 2 . 00

**Planner's Report on application under Section 5 of the
Planning and Development Acts 2000 - 2011**

Reference Number: DED 507

Name and Address of Applicant: Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development consisting of - new wider gates x 2 (No. 1 8ft. to 12ft. and No. 2 8ft to 15ft) at Lissalway, County Roscommon

Applicant: Dr. Patricia Browne

Date: 7th March 2022

WHEREAS a question has arisen as to whether works consisting of new wider gates x 2 (No. 1 8ft. to 12ft. and No. 2 8ft to 15ft) at Lissalway, County Roscommon is or is not development and is or is not exempted development.

I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 – 2011
- (d) The planning history of the site

Site Location & Development Description

The subject sites are located along the R377 Regional Road in Lissalway, County Roscommon. The nature of the proposed works consists of the installation of 2 new wider gates (No. 1 8ft. to 12ft. and No. 2 8ft to 15ft). As per the submitted details, the existing and proposed use of the lands is agricultural. The subject sites are not situated within, adjoining or in very close proximity to any designated sites. Having regard to the separation distances between the sites and the Natura 2000 network, it is considered that the conservation objectives of the network will not be impacted.

Planning History

PD 20 21 – Planning permission to upgrade an existing agricultural entrance and all associated site works. Status: Incomplete application.

Assessment

In accordance with the Planning and Development Act, 2000 Section 3. (1) development is defined as the following: "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". The proposed development is considered to be the carrying out of works. Works are defined in the Act as; "works" includes any act or operation of construction, excavation, demolition,

extension, alteration, repair or renewal and, in relation to a protected structure....” In this Act, “land” includes any structure and any land covered with water (whether inland or coastal)”. It is considered that the said works consisting of new wider gates x 2 constitutes works, as defined in Section 3 of the said Act.

Articles 9 Restrictions on exemption (1) (ii) of the Planning and Development Regulations, 2001 (as amended) states 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— (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width. The proposed works are considered to be development which is not exempted development. The surfaced carriageway at both subject locations along the R377 Regional Road exceeds 4 metres in width.

With Regard to Article 9 (1)(a) of the Planning and Development Regulations, it is reasonable to conclude that on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the need for AA does not apply with respect to the current case.

I am satisfied that an Environmental Impact Statement or Appropriate Assessment are not required. It should be noted that any development for which Environmental Impact Assessment or Appropriate Assessment is required shall not be exempted development unless specifically exempted in regulations where there is provision in other legislation for the carrying out of EIA or AA. In addition, the restrictions on exemption Art 9 (1)(a) (viiB) exclude development which would otherwise be exempted development under these regulations where an AA is required.

Recommendation

WHEREAS a question has arisen as to whether works consisting of new wider gates x 2 (No. 1 8ft. to 12ft. and No. 2 8ft to 15ft) at Lissalway, County Roscommon is or is not development and is or is not exempted development.

I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 – 2011
- (d) The planning history of the site

AND WHEREAS I have concluded that

- a) The works are development.
- b) The installation of new wider gates in this instance is not exempted development.
- c) The proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the requirement for AA or EIAR does not apply with respect to the current case.

and I recommend that a declaration to that effect should be issued to the applicant.

Jennifer Foy

Signed:
Assistant Planner

Date: 7th March 2022

22417

Probate No 1

the District Probate Registry at Galway

2013 GY 000311

THE HIGH COURT PROBATE

BE IT KNOWN that on the 26th day of November 2013 the last Will a copy of which signed by me is hereunto annexed of **PATRICK BROWNE** late of Creeve Donamon in the County of Roscommon

Farmer

deceased who died on or about the 4th day of September 2003 at same place and who at the time of death had a fixed place of abode at Creeve Donamon in the County of Roscommon within the District of this Probate Registry was proved and registered in the District Probate Registry at Galway and that the Administration of all the estate which devolves on and vests in the personal representative of the said deceased was granted by the Court to **MARY TERESA BROWNE** of 20 Ashbrook Galway Road Roscommon in the County of Roscommon, Teacher, daughter of the deceased the sole Executrix named in the said Will

she having been first sworn faithfully to administer the same

And it is hereby certified that an Affidavit for Inland Revenue has been delivered wherein it is shown that the gross value of all the Estate of the said deceased within this jurisdiction (exclusive of what the deceased may have been possessed of or entitled to as a Trustee and not beneficially) amounts to Eur 622,770.00 and that the net value thereof amounts to Eur 618,802.00

Marian Chambers Higgins

The person authorised by law to perform the duties of District Probate Registrar for the District of the Counties of Galway and Roscommon and County Borough of Galway

Extracted by **Dillon-Leetch & Connerford Solicitors**
Eur 435.00

ROSCOMMON COUNTY COUNCIL

NOTE FOR THE COUNTY AND TOWN CHARGES RATE MADE ON THE 12th DAY OF MARCH, 1979 FOR THE YEAR ENDING 31st DECEMBER, 1979, LEVIABLE IN TWO HALF YEARLY MOIETIES, TOGETHER WITH ARREARS.

PATRICK BROUKE
LISALWAY

0314	17	0600
Serial No.		Account No.

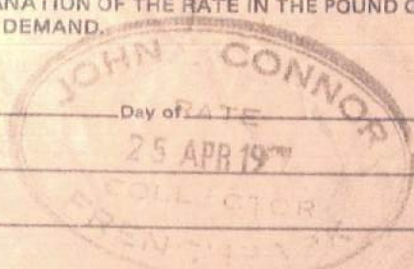
SECTION AND BLDGS.	MAP REFERENCE	TOWNLAND	DESCRIPTION	AREA			E.D.	T.L.	RATE NO.	TYPE
				A.	R.	P.				
6.00	20AR	LISALWAY	L	18.0.00			054	2305	3380580001	04
43.50	15A*	LISALWAY	HOL	39.3.25			054	2305	3380420008	01
8.50	25D	LISALWAY	L	15.1.13			054	2305	3380560009	04

on indic

Total Land & Bldgs.	Assessable Val.	Current Rate	Town Charges	ALLOWANCES & RELIEFS				Net Current Rate
				Primary	Supplementary	Domestic Etc.,	Total	
58.00	58.00	701.15		93.17	122.24	51.38	266.79	334.37
				Arrears	1st Moiety	2nd Moiety		Gross Amount Demanded
		20.00	33.5	0.00	167.19	167.18		334.37

I HEREBY DEMAND PAYMENT OF THE RATE SHOWN HEREON, THE 1st MOIETY OF THE RATE MADE AS ABOVE MENTIONED AND ARREARS BEING PAYABLE FORTHWITH, AND THE 2nd MOIETY ON THE 1st JULY 1979. DETAILS OF THE RATE IN THE POUND OF THE RATE MADE AS ABOVE MENTIONED AND AN EXPLANATION OF THE RATE IN THE POUND OF THE ABATEMENT FOR AGRICULTURAL LAND ARE SET OUT ON THE BACK OF THIS DEMAND.

Dated this _____ Day of _____ 1979
 Signed _____ Rate Collector
 Address _____





Land Registry

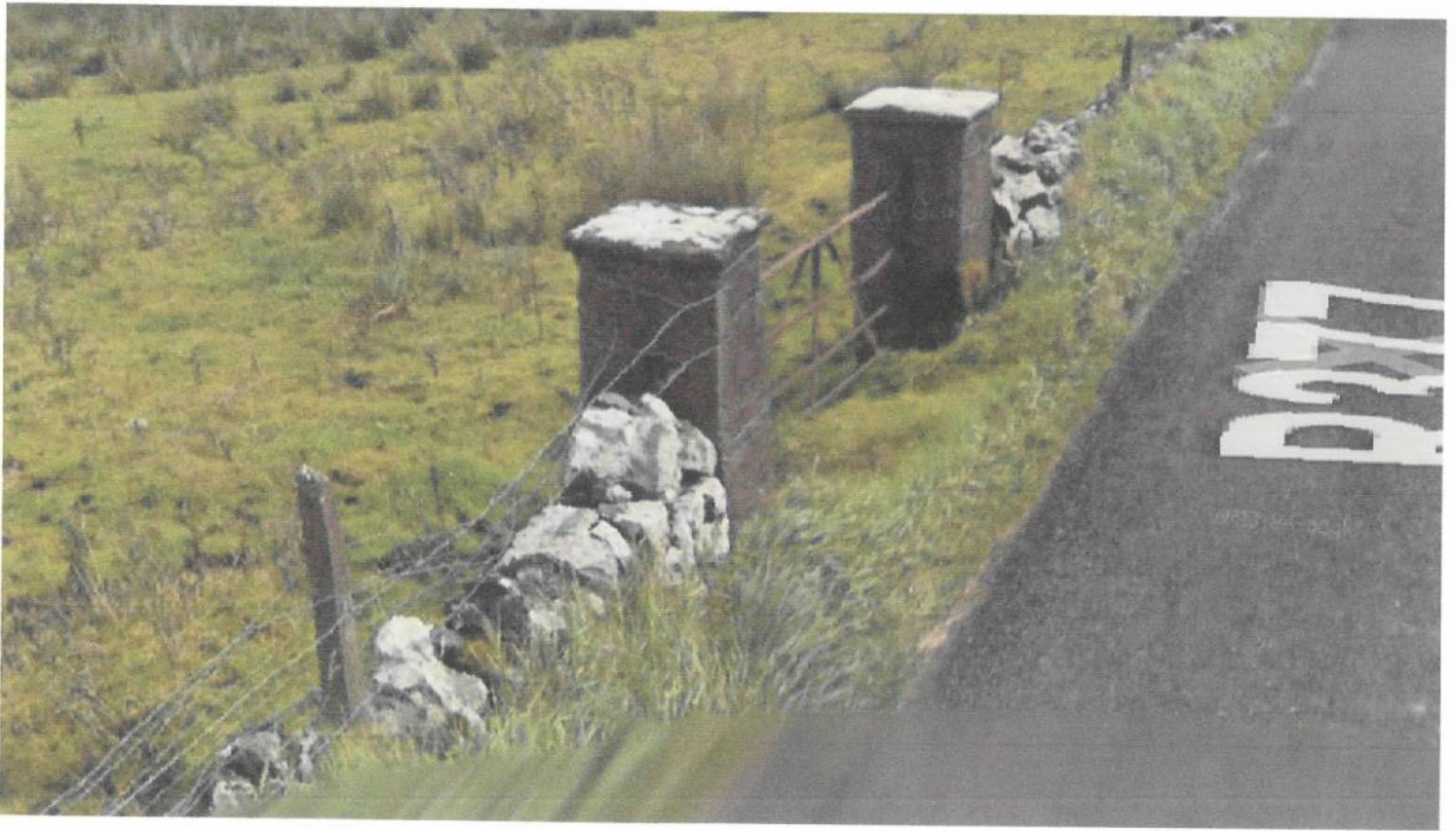
County Roscommon

Folio 42528F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	08-FEB-2018 PATRICIA BROWNE of Creeve, Donamon, County Roscommon is full D2017LR124092Y owner.



Patricia Browne
Creeve
Donamon
County Roscommon

Rejected

YOUR REF: No Ref
OUR REF: D2019LR069775P
FOLIO No: RN2483
APPLICANT: PATRICIA BROWNE

Over 80% of applications are not rejected.

Eliminate any further delays for your client:

1. You must use the re-lodge button to generate a new Form 17 when re-submitting this application.
2. Re-execute amended deeds.
3. Return the copy of this rejection letter and any document with validated fees.
4. See our videos and checklists on prai.ie

Dear Sir/Madam,

Documents and any validated fees are returned. This application cannot be registered until the following rulings have been dealt with in full.

1. It is not clear from the application lodged in Form 6 what registration the applicant is applying for. The will of Patrick Browne who died in 2003 devised the lands to his two daughters Patricia Browne and Mary Browne subject to burdens in favour of his wife Josephine and they have been in receipt of the rents and profits since his death. Paragraph 6 of the application lodged reads "I apply to be registered as owner of the property set out at paragraph 1. Paragraph 1 refers to folio RN2483. Paragraph 2 of the application states "my sister and I have agreed to divide the property in two equal shares". It is not clear, if the intention is that both Mary and Patricia acquire a half share each of the property as tenants in common in equal shares or each are to acquire a specific part of the lands. In either case, an agreement does not give legal effect and it is necessary to lodge the appropriate deed of transfer by the parties on foot of the agreement and subject to any burdens created in the will that affect, to which both parties must assent as a burden on the folio. The deed of Transfer must be accompanied by the appropriate Revenue Certificate.

Enquiries may be addressed to GERALDINE SWEENEY, Telephone 8048150, Fax 8048037.

- Paragraph 6 of the application should clearly set out the registration applied for.
2. The will of Patrick Browne devised the lands to his two daughters subject to them supporting and maintaining their mother Josephine Browne during her life and subject to her having exclusive use of the house. It would appear necessary to protect these rights by the registration of the appropriate burdens on the folio. The application does not refer to these burdens and there is no assent to their registration as a burden on the folio. Please deal with this.
 3. Lodge the death certificate of Teresa Browne whom it is stated died in August 2011.
 4. State the present address of Mary Browne.
 5. Paragraph 5 of the Form 17 must be completed by the applicant

As these are complex cases it may be advisable to seek legal advice on the above matters set out at No. 1 and 2.

Please ensure all the above rulings are dealt with in full before relodging this application otherwise the application will be rejected.

Yours faithfully,

GERALDINE SWEENEY
CHANCERY STREET

15 October 2019

Roscommon County Council : Pre-Planning Request

Return e-mail address : planning@roscommoncoco.ie



Office use only

Pre-planning ref. no.	3380
Assigned Planner	Brian Farragher

ROSCOMMON COUNTY COUNCIL - Request for Pre-Planning Meeting

Name of Applicant: PATRICIA BROWNE

Address: CREEVE, DONAMON
CO ROSCOMMON

Telephone Number: [REDACTED]

Email address: [REDACTED]

Agent details : N/A.

Location of proposed development: Close to Lisselway Crossroads (R377)

Nature and extent of Proposed development: Widening of existence gate entrance from 8ft to 12ft and placing furth away from roadway - approx 5ft into fur

Applicant's legal interest in the site:

Please tick - Owner

Option to purchase

Other

If 'Other', please specify (currently being registered)

If not the owner of site, name and address of owner: n/a (owner deceased)

Where the applicant is not owner of the site, a letter consenting to a pre-planning query being made must be submitted by the owner of site with this application.

I declare that all the information provided on this form, to be true and accurate.

Signed: Patricia Browne Date: 15/5/19

Roscommon County Council : Pre-Planning Request

Qualification

Please note that any advice is given in good faith and without prejudice to the formal consideration of any subsequent planning application. Section 247 (3) of the Planning & Development Act 2000 (as amended) states that "the carrying out of consultations shall not prejudice the performance by a planning authority of any other of its functions under this Act, or any regulations made under this Act and cannot be relied upon in the formal planning process or in legal proceedings." Formal consideration of an application is more extensive than consideration at the pre-application stage and includes for example the consideration of any internal technical reports, submissions from prescribed bodies and submissions from third parties.

Documents to be submitted with this request:

- Site location map
- Draft site layout plan
- Site photos
- Detailed outline of the proposal
- Letter of consent from landowner (where relevant)

Please note that while it is not necessary to have the above prepared by an architect/agent, it is advisable to submit as much information as possible. Site levels / contours could be beneficial but are not mandatory.

The Planning Authority strongly caution against proceeding to commission detailed design proposals prior to the principle of the proposed development first being discussed at the initial pre-planning meeting.

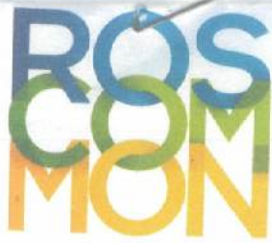
A pre-planning meeting cannot be scheduled until the request form and associated documents are provided.

ALL E-MAIL REQUESTS TO BE SENT TO planning@roscommoncoco.ie

Please do not send pre-planning requests to the individual e-mail addresses of Planning team members.



Pictures of Entrance to be adjusted on the location ON road R377 OFF R367



REGISTERED POST

Patricia Browne,
Creeve,
Donamon,
Co. Roscommon,

Date: 28/01/2020
Planning Ref: PD/20/21

PERMISSION

**RE: Planning and Development Act 2000 (as amended).
Permission to upgrade an existing agricultural entrance and all associated site works at Lissalway,
Castlerea, Co. Roscommon.**

A Chara,

I refer to the above planning application, which was received on the 22/01/2020, and which is now being returned herewith.

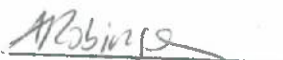
This application is invalid and cannot be considered by Roscommon County Council for the reasons outlined in the attached Validation Checklist. This list is not exhaustive and in the event of the submission of another planning application you are reminded it is your responsibility to ensure that all the Planning Regulations are fully complied with.

The fee in the sum of €80.00, submitted with the application, will be refunded to you in due course.

In order to process this refund the attached Bank Account Details Form is required to be completed in full and returned to the Planning Department. Please return this form at your earliest convenience.

Please remove the site notice or notices erected or fixed pursuant to Article 17 (1) (b) of the Planning & Development Regulations 2001 (as amended).

Mise le meas


**Antoinette Robinson,
Administrative Officer,
Planning/sk**

**CC: Edel Bailey,
Simon Beale & Associates,
Millstream House,
Williamstown Road,
Castlerea,
Co. Roscommon,**



PD/20/21/SK.



Comhairle Contae Ros Comáin Roscommon County Council

Supplier Setup/Amendment Request Form



ALL Fields are Mandatory and Form will be Returned if Incomplete

SUPPLIER NAME:
 CONTACT NAME:
 SUPPLIER ADDRESS:
 EMAIL ADDRESS:
 CONTACT NUMBERS:
 VAT NO./TRN/PPS NO. & ACCESS CODE:
 NAME OF BANK/CREDIT UNION:
(If Credit Union please include Member Account No. & Email address of Branch)

Telephone: Mobile:

BANK ADDRESS:
 BANK ACCOUNT NO:
 BANK SORT CODE:
 BANK ACCOUNT BIC NO:
 BANK ACCOUNT IBAN NO:

COPY OF RECENT BANK STATEMENT HEADER MUST BE ATTACHED

Roscommon County Council Use Only (To be completed by staff member requesting set up)

Roscommon County Council Contact: SECTION:

Setup or Amendment (If Amendment please quote Supplier ID)

Have you verified bank details by telephone or in person Telephone In Person

Is a copy of recent Bank Statement header attached Yes If not please return

Please indicate category of supplier:

1. Trade Supplier	6. Revenue Commissioners
2. Expenses - Staff/Member/Other	7. Payroll Deductions
3. Higher Education Grants	8. Superannuation Award
4. Other Grants (Housing/amenity/private wells etc)	9. Housing Loans
5. Other Local Authorities	

Have you requested a Tax Clearance Cert Yes No

If a Trade Creditor please indicate type: Sub Contractor / Withholding Tax Supplier / Normal Payment Supplier

WHAT IS THE PAYMENT FOR:

HOW MUCH DO WE EXPECT TO PAY THIS SUPPLIER

NOTE:
 Where a supplier may be paid over €10,000 for goods and services in a year, they must provide their TRN and Access Code for TCC Verification
 Where a supplier is employed as a sub-contractor please ensure they have submitted a valid Contract Registration form.
 Please ensure both of the above are in place *before* dealing with such suppliers.

Finance Section:
 Supplier set up by: Name Date

Name: Patricia Browne.

VALID

INVALID

Date Submitted: 22-01-2020

Reg. No. PD: 2021

Validation Checklist for files received on or after 31 March 2007
 In accordance with Planning and Development Regulations 2001 & 2006
 This does not form part of the application and does not purport to be an interpretation of the regulations
 For indication only. RCC internal use only.
 If any of the questions below are marked NO the application will be Invalid by reason of non-compliance with the Regulations.

Contents of the Application	Yes	No	N/A	Comments	Regs
Location, townland or postal address					
Permission type	✓				22(1)
Permission Consequent - Outline details supplied	✓				22(1)
Registered Company - Names of Directors and Reg Address			✓		22(1)
Person responsible for preparation of drawings			✓		22(1)
Description of development	✓				22(1)
Legal interest in land or structure	✓				22(1)
If not owner - names and address of owner <i>no documentation</i>			✓		22(1)
Site Area		✓			22(1)
If building(s): gross floor area of existing and proposed	✓				22(1)
Mixed development - Breakdown of areas			✓		22(1)
Residential development - Breakdown			✓		22(1)
Change of use developments: statement on existing/proposed use			✓		22(1)
Social and Affordable Housing			✓		22(1)
Development Details			✓		22(1)
Site History	✓				22(1)
Pre-application Consultation	✓				22(1)
Services	✓			3380 - Ref.	22(1)
Details of Public Notice			✓		22(1)
Application Fee	✓				22(1)
Signed	✓				22(1)
Applicant details	✓				22(1)
Agents Details	✓				22(1)
Notice in Newspaper					
Relevant page or copy supplied (including title & date)					
Approved newspaper circulation in the area	✓				22(2)(a)
Published within two weeks of application	✓				18(1)
Planning Authority as heading	✓				18(1)
Name, Location, Permission Type, Outline Planning Ref. No.	✓				18(1)
Brief description of development	✓				18(1)
State no. of houses being provided					18(1)(d)
If retention- proposed use and period for retention			✓		18(1)(d)(i)
State if Protected or Proposed Protected Structure			✓		18(1)(2)
State if Waste or IPC Licence required			✓		18(1)(d)(iii)
Inspection/Purchase/Fee and submissions within 5 weeks			✓		18(1)(d)(iv)
Adequate content	✓				18(1)(e)
					26(3)(b)
Site Notice:					
Copy of site notice provided					
In accordance with Form No.1 of Schedule 3 or similar	✓				22(2)(a)
Inside the 2 week rule	✓				19(1)(a)
Yellow Background(if within 6months of valid application)	✓				17(1)(b)
Adequate content			✓		19(4)
	✓				26(3)(b)

Site Location Map	Yes	No	N/A	Comments	Regs
6 copies					
Scale not less than 1:1000 urban, 1:2500 rural	✓				22(2)(b)
Sufficient for site identification	✓				22(2)(b)
Site boundaries delineated in red	✓				22(2)(b)
Land under the control of the applicant or owner outlined in blue	✓				22(2)(b)(i)
Wayleaves outlined in yellow	✓				22(2)(b)(ii)
Position of site notice			✓		22(2)(b)(iii)
All maps based on OS maps indicate sheet number	✓				22(2)(b)(iv)
Corresponds with site outlined on site layout plan	✓				23(1)(g)
	✓				23(1)

Layout Plan:

6 copies					
Scale not less than 1:500	✓				22(4)(a)
Site boundaries delineated in red	✓				23(1)(a)
Features in the vicinity of the land or structure shown	✓				23(1)(a)
Level or contours where applicable with benchmark	✓				23(1)(a)
Distances from structure(s) to boundaries of the site	✓				23(1)(c)
North Point	✓				23(1)(f)
Corresponds with site shown on site location map	✓				23(1)(h)
	✓				23(1)

Drawings of Floor Plans, Elevations, Sections:

6 copies					
Scale not less than 1:200 or as agreed			✓		22(4)(a)
Elevations show main features of any contiguous buildings			✓		23(1)(b)
All plans relating to reconstruction, alteration or extension coloured to distinguish existing and proposed			✓		23(1)(d)
Principal dimensions including height			✓		23(1)(e)
North Point on Floor Plan			✓		23(1)(f)
			✓		23(1)(h)

Miscellaneous:

On site treatment system & site suitability test			✓		22(2)(c)
Section 96 of Act applies, proposals for compliance / certificate			✓		22(2)(e&f)
Letter of consent if applicant is not legal owner <i>No Documentation.</i>		✓			22(2)(g)
Outline Planning Permissions include plans to enable a decision in relation to siting, layout or other proposals	✓				24
<i>If Protected Structure or work in Architectural Conservation Area: Photos, plans and particulars to show effect on character of structure</i>			✓		23(2)
Is application on zoned lands?			✓		
Appropriate Fee in accordance with Schedule 9	✓				22(2)(h)

Electricity Companies

Special requirements for drawings see Article 25(2)			✓		25
---	--	--	---	--	----

Validated By: 

Date: 24-01-20

Registered By: 

Date: 24-01-20

Environmental Impact Statement

Is an EIS required see Section 172			✓		
If yes is it attached?			✓		

Roscommon County Council

We, Simon Beale + Associates, are applying to Roscommon County Council, on behalf of Patricia Browne to upgrade an existing agricultural entrance and all associated site works at Lissalway, Castleroa, Co. Roscommon.

The Planning application may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of the Planning Authority during its opening hours. A submission or observation in relation to the application may be made in writing to the Planning Authority on payment of the prescribed fee, €20, within the period of 5 weeks beginning on the date of receipt by the Authority of the application, and such submission or observations will be considered by the Planning Authority in making a decision on the application. The Planning Authority may grant permission subject to or without conditions, or may refuse to grant the application.

Signed:
Simon Beale + Associates,
Millstream House,
Williamstown Road,
Castleroa, Co. Roscommon
094 9625952

virayc

BALES of Silage for sale, reasonably priced. Croghan area. Phone 087 2133235

GOOD round bales of top quality green hay suitable for cattle or sheep. Boyle area. 086 8863772.

Trades & Services

Fencing

T. McGRATH FENCING Post and Rail, cattle and sheep. GLAS, AEOS and forestry. Panel and picket fencing. Competitive quotes. Phone: 086 8347226

Accommodation

COMFORTABLE 3/4 bedroom house to rent at Friars Hill Close, Ballaghaderreen. References required. Contact 087 6182882.

Property to let

3 Bedroom semi-detached bungalow house for rent at Ballymoe village. Nice gardens, good view. Phone: 089-2489853.

Property Wanted

WANTED - Properties to rent in Boyle, Elphin, Frenchpark, Strokesstown & surrounding areas. Contact: Smith Kelly Scott Auctioneers on 071 96 62124.

Roscommon Here!

ROSCOMMON

† 090 662737

• advertising@roscommonhere.com

BOYLE

† 071 9662004

• advertising@roscommonhere.com

Roscommon County Council
 Aras an Chontae
 Roscommon
 09066 37100

22/01/2020 12:40:43
 Receipt No: 170/205359

THE USHER
 CASEMERE
 BALINA
 CO. MONAGHAN

PLANNING APPLICATION FEES 80.00
 GOODS 80.00
 VAT Exempt/Non-vatable 2782

Total: 80.00 EUR
 Tendered Credit/Debit Card 2282 80.00
 Change 0.00

Issued By: Marie McDermott
 From: Central Cash Office

**ROSCOMMON COUNTY COUNCIL
 ARAS AN CHONTAE
 ROSCOMMON**

MERCHANT ID: *****0191
 TERMINAL ID: *****9105
 DATE: 22/01/2020 TIME: 12:39
 BATCH: 00001011 INVOICE: 007798
 RPN: 177010367327 AUTH NO.: 055538
 MasterCard
 *****2292 SALE

SALE AMOUNT €80.00
 CUSTOMER NOT PRESENT

I agree to pay the above final amount
 According to the card/merchants issuer
 agreement

CUSTOMER COPY



Comhairle Contae
Ros Comáin
Roscommon
County Council



BY EMAIL

Dr Patricia Browne,
Creeve,
Donamon,
Co. Roscommon

Date: 25/6/2021

Re: Customer complaint regarding Roscommon County Council's Planning Section

Dear Dr Browne,

Further to receipt of your e-mail communication of 16th May 2021 in which you identified that you had an "an issue with the level of customer service" in Roscommon County Council's Planning Department and your subsequent e-mail communications of (a) 20th May 2021 providing further elaboration on the areas of service that are the subject of the complaint and (b) 25th May 2021, entitled 'Complaint 1' and including a completed Customer Complaint Form providing detail relating to your complaint, I have now concluded investigation of the matters raised. As advised in my interim update to you (provided by e-mail on 16th June 2021), the investigation of the issues raised in your complaint involved an examination of the various interactions which you have had with the Planning Section since 2019 in relation to your proposal to modify a field entrance.

Overall, the complaints raised in your communications of 16th May, 20th May and 25th May 2021 relate to two primary issues:

1. The invalidation of Planning Application Ref. No. PD/20/21 in January 2020; and
2. The nature of responses provided to various queries raised by you in relation to planning matters associated with your intention to modify a field entrance.

Table 1 below contains a **summary** of your main interactions with the Planning Authority in respect of interlinked queries and considerations relating to your intention to modify the aforementioned field entrance. The details contained below do not purport to reflect all communication, but rather to identify the key queries posed by you and the nature of responses and advice provided by the Planning Authority.

Table 1 : Summary of Communications

Date	Summary of your query / action	Planning Section Response
30 April 2019	E-mail seeking "clearance to make an adjustment to an existing entrance onto road from farmland."	2 May 2019 – further to clarifying that the access is onto a regional road, the Planning Section confirmed that planning permission would be required.
15 May 2019	Request for a pre planning meeting to discuss the access proposal.	5 June 2019 – pre-planning meeting concluded (PP3380 refers). Advised, as per 2 May 2019, that planning permission would be required.

6 June 2019	Request that the Planning Officer review / reconsider the pre-planning advice provided and also requesting details of the legislation to support the advice provided.	10 June 2019 – e-mail clarification provided, including relevant extract from Article 9 of the Planning and Development Regulations 2001 (as amended).
22 January 2020	Submission of a planning application (PD/20/21 refers) seeking permission to upgrade an existing agricultural entrance and all associated site works at Lissalway, Castlereagh.	<p>24 January 2020 – undertaking of the statutory planning application process by the Planning Authority;</p> <p>28 January 2020 – letter issued from the Planning Authority advising of the invalidation of the planning application and returning all planning application documentation.</p> <p>As per the validation checklist, the invalidation resulted from non-compliance with Article 22 of the Planning and Development Regulations 2001 (as amended), and specifically related to land ownership matters.</p>
30 January 2020	E-mail querying “where is the attached validation checklist”?	30 January 2020 – E-mail issued with the requested validation checklist.
30 January 2020 31 January 2020	Various e-mails setting out your views on the ownership status of the subject land.	31 January 2020 – e-mail response from the Planning Section, including clarification that the documentation submitted (referring to correspondence received post invalidation, on 30 January 2020) does not constitute evidence of legal ownership.
18 August 2020	E-mail to former Area Planner querying various technical matters (including land ownership issues) relating to the potential submission of a new planning application and likelihood of approval of same. (E-mail subsequently re-sent directly to Planning Section, as the officer contacted was not assigned to the Planning Section at that time).	7 September 2020 – e-mail response from Planning Section referring to the previously invalidated planning application (PD/20/21) and advising that documentation regarding landownership “was not adequate to prove your ownership or consent of the owner.”
7 September 2020	E-mail in which you re-iterate that you are the landowner, and also containing queries in respect of a supplementary form pertaining to agricultural developments, and use of maps previously submitted.	

19 April 2021	E-mail referring to previous pre-planning discussions and again querying if planning permission is needed for the works.	4 May 2021 – e-mail (a) referring to advice previously provided by the Planning Authority in the course of pre planning discussions, in which it was advised that planning permission was required for the proposed works and (b) explaining the Section 5 Declaration of Exempted Development process, in the event that you consider, as per your communication of 3 May 2021, that the works may constitute exempted development. A Section 5 application form was also provided.
3 May 2021	E-mail following up on query posed on 19 April 2021 and also enclosing a letter which appears to constitute a request for a Declaration of Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended).	
5 May 2021	E-mail requesting that a response is provided to a query raised in a previous e-mail in relation to map scales (“inches, feet, cm, etc.) and also disputing the invalidation of the previous planning application (PD/20/21) due to ownership.	5 May 2021 – e-mail confirming that map scale requirements are metric, and advising that any planning application submitted is assessed for validation purposes in accordance with Section 4 of the Planning and Development Regulations 2001 (as amended).
6 May 2021	E-mail querying if you will be recognised by Roscommon County Council as the landowner in the event of the submission of a Section 5 application for a Declaration of Exempted Development, and stating that you have “not finished the registration process with the land registry.” The e-mail also indicated that you consider that the proposed development should be considered to constitute exempted development.	10 May 2021 – e-mail explaining the Section 5 Declaration of Exempted Development process, how one may apply for a Section 5 declaration, the timescales for the processing of such an application, and confirmation that any person may request such a declaration, irrespective of ownership. A link was also provided to a copy of the Section 5 legislation, for information purposes.
10 May 2021 (10.04am)	E-mail query regarding the nature of maps required in making a Section 5 application.	14 May 2021 – e-mail clarifying in relation to your land ownership query that: (a) Any individual may submit an application for a Declaration of Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended), irrespective of ownership; and (b) In relation to a planning application, in the event that a site is not in the ownership of the applicant, as per Land Registry, a letter of consent from the owner must accompany the application.
10 May 2021 (10.10am)	E-mail requesting further clarity on Roscommon County Council’s view on your ownership status of the subject lands.	

		The e-mail also provided further clarification on mapping queries in respect of (a) a potential Section 5 application for a Declaration of Exempted Development and (b) mapping requirements in respect of a planning application, as per Part 4, Article 23 of the Planning and Development Regulations 2001 (as amended), and an electronic link was also provided to the latter.
15 May 2021	E-mail in response to the Planning Authority's communication of 14 May 2021, suggesting that queries in relation to mapping had not been addressed and also seeking to revisit the issue of landownership.	
16 May 2021	E-mail querying who is the Designated Appeals Officer in the Planning Department or the Council and indicating that you have an issue with the level of customer service provided in the Planning department.	20 May 2021 – e-mail providing an electronic link to the Council's Customer Complaints Process and confirming that based on the nature of your complaint on 16 May 2021, that the matter was considered to be at Stage 2 of the complaint process and as such would be investigated by the Section Head in Planning.

Outcome of my investigation in respect of Issue 1 - The invalidation of Planning Application Ref. No. PD/20/21 in January 2020

The assessment of Planning Application Reference No. PD/20/21 for validation purposes was undertaken in accordance with the statutory provisions of Part 4, Article 26 of the Planning and Development Regulations 2001 (as amended). The application was deemed invalid on the basis of non-compliance with Article 22 of the aforementioned Regulations, specifically in respect of land ownership. Article 22(2)(g) of the Regulations requires *"where the applicant is not the legal owner of the land or structure concerned, the written consent of the owner to make the application."* The obligation to comply with this is reflected in Question 10 of the planning application form, with said question entitled 'Legal interest of Applicant in the Land or Structure.'

In response to the first element of Question 10, you, as the applicant, identified your legal interest as 'C – Other' as the relevant answer (where other response options are 'A' - owner and 'B' - occupier).

The second element of Question 10 of the application form states that *"if you are not the legal owner, please state the name and address of the owner and supply a letter from the owner of consent to make the application as listed in the accompanying application."* The information provided in response to this did not state the name and address of the owner, and instead stated "currently being registered." Additionally, no letter of consent was provided. On the basis of the details provided, the statutory requirements set out in Article 22 (2)(g) could not be considered to be fulfilled.

Having regard to reference to the subject lands "currently being registered", the Planning Authority, as part of the validation assessment of the application, also undertook to access official Land Registry records to determine if a registration was pending. There was no record of any pending registration and the lands were identified as being registered to a Mr. Patrick Browne.

On the basis of all of the foregoing considerations, I am satisfied that the Planning Authority undertook the validation assessment of PD/20/21 in accordance with statutory obligations, and in a manner which was fair and consistent with the validation assessment of all planning applications. Unfortunately, on the basis of the landownership situation, the planning application could not be considered valid. The letter notifying you / your agent of the invalidation of the planning application issued on 28th January 2020, together with the return of the application documentation.

As is standard in respect of letters notifying of the invalidation of a planning application, reference was made to an attached validation checklist. Although the physical planning file contains a copy of the checklist together with the notification letter, I note from your communication of 30th January 2020 that you did not appear to have received the checklist. Whilst I note that a copy was provided to you by response e-mail that day, I apologise for any omission of this from the original documentation which issued. This may have arisen due to an oversight in the assembly of the documentation package for posting.

I also note that in your complaint on 20th May 2021, you refer to "a document missing from the application that is required for agricultural developments according to Ros Co Co website in 2020. There was no mention of this in the checklist sent to the firm submitting the application." Please note in this regard that your proposal to modify an access did not necessitate the completion of such a form. The fact that such a form was not included in the submitted planning documentation was not a contributing factor to the invalidation of the planning application and did not necessitate reference to such on the Planning Authority's validation checklist.

Your communications in respect of landownership matters after the invalidation of PD/20/21:

I note that the details provided in your correspondence following the invalidation of PD/20/21 outline your late father's ownership of the subject lands, and your apparent continued involvement in activity on the landholding. It is evident, based on the content of your various communications, that you consider yourself to be the "heir" / "the rightful heir and owner." However, the Planning Authority must rely on factual ownership details, and the position, as formally evidenced on Land Registry, is that you were not the registered landowner when making the planning application.

- unjust
attack
in word
phrasing

In light of the foregoing and the fact that you are not to date recorded as the registered landowner, nor is there any evidence of title registration pending in respect of the subject land, I regret to advise you that the submission of a further planning application would be premature. If the statutory provisions of Article 22(2)(g) of the Planning and Development Regulations cannot be complied with, the Planning Authority cannot deem an application to be valid.

Outcome of my investigation in respect of Issue 2 - The nature of responses from the Planning Section to various queries raised by you in relation to planning matters associated with your intention to modify a field entrance

Having examined the instances of your interaction with officials in the Planning Section, which occurred primarily but not exclusively through e-mail communications, between 30th April 2019 (being the date of your initial planning query) and 16th May 2021 (being the date of submission of your initial Customer Complaint), I have concluded that all reasonable assistance was provided to you by officers of the Planning Section in response to the queries you raised over that period. Advice provided was grounded in the legislative provisions of the Planning and Development Act 2000 (as amended) and in the Planning and Development Regulations 2001 (as amended).

The nature of the queries raised by you and the responses provided have been documented in summary form in Table 1 above.

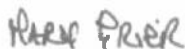
Conclusion

Having investigated your complaint about the services of the Planning Section, I have concluded

- (a) That the actions of the Planning Authority in invalidating Planning Application Ref. No. PD/20/21 were appropriate and in accordance with statutory provisions; and
- (b) That officials of the Planning Section provided timely and factually correct responses to the extensive range of queries posed in your communications.

Roscommon County Council's Customer Complaint process involves three stages, of which my investigation and response to you constitutes the second stage. Should you consider that your complaint has not been fully or fairly addressed at this stage, you may choose to escalate the matter to Stage 3, which involves communications with the Designated Appeals Officer. The Customer Code of Practise for Complaints and Appeals is available to view in full on Roscommon County Council's website.

Yours sincerely,



Mary Grier
Senior Planner

Simon Beale and Associates V Patricia Browne

- 1) Relevant Law – Contract - Breach of Contract- an act of breaking the terms set out in a contract,
n. failing to perform any term of a contract, written or oral, without a legitimate legal excuse. **Defective performance: the promisor performs their duty but not to the quality or quantity specified in the contract; Sale of Goods and Supply of Services Act 1980.**

PART V

Misrepresentation

“Contract”.

43.—In this Part “contract” means a contract of sale of goods, a hire-purchase agreement, an agreement for the letting of goods to which section 38 applies or a contract for the supply of a service.

Removal of certain bars to rescission for innocent misrepresentation.

44.—Where a person has entered into a contract after a misrepresentation has been made to him, and

(a) the misrepresentation has become a term of the contract, or

(b) the contract has been performed,

or both, then, if otherwise he would be entitled to rescind the contract without alleging fraud, he shall be so entitled, subject to the provisions of this Part notwithstanding the matters mentioned in paragraphs (a) and (b).

Damages for misrepresentation.

45.—(1) Where a person has entered into a contract after a misrepresentation has been made to him by another party thereto and as a result thereof he has suffered loss, then, if the person making the misrepresentation would be liable to damages in respect thereof had the misrepresentation been made fraudulently, that person shall be so liable notwithstanding that the misrepresentation was not made fraudulently, unless he proves that he had reasonable ground to believe and did believe up to the time the contract was made that the facts represented were true.

(2) Where a person has entered into a contract after a misrepresentation has been made to him otherwise than fraudulently, and he would be entitled, by reason of the misrepresentation, to rescind the contract, then, if it is claimed in any proceedings arising out of the contract that the contract ought to be or has been rescinded, the court may declare the contract subsisting and award damages in lieu of rescission, if of opinion that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party.

(3) Damages may be awarded against a person under subsection (2) whether or not he is liable to damages under subsection (1), but where he is so liable any award under subsection (2) shall be taken into account in assessing his liability under subsection (1).

- 2) Patricia Browne was misrepresented as there was no forewarning given that the application would not be accepted on ownership grounds and one had to be registered as owner on the land registry records. Why was receipt sent directly back to Patricia Browne and not the payer which was Simon Beale and Associates.
- 3) Detail in map is sparse compared to another map for entrance elsewhere.
- 4) Pre-Planning pack containing a map costs only approx. 60 euro from OSI direct so why should I pay 1.600.00 for almost nothing only a wasted two years. I did not initiate legal proceedings and why not in the Small Claims Court rather than the District Court?
- 5) No service(s) of worth or any value were provided to Patricia Browne
- 6) 20 months on approx. from attempted application and no gate installed yet.
- 7) Neither Brian Farragher nor Edel Bailey informed the applicant Patricia Browne that the application for planning permission would only be assessed/granted if the land registry database showed the current title to be in the name of the applicant.

2) Injustices and Losses Suffered

- 1) Patricia Browne has lost approx. 1000 euro in revenue from the land between 2020 and 2021 and also a grant of approx. 300 euro under TAMS2.
- 2) Getting the clients name wrong initially shows poor interest and attention to important details.

- 3) There is also further vexatious arguments such as a specific document that is required for planning applications for agricultural developments as not existing or as not being needed by RosCoCo. This document would have been needed in this application to fulfil the terms as set out on the RosCoCo website.
- 4) I employed Simon Beale and Associates to submit a planning application on my behalf. This is a contract for a specific purpose. I did not contract myself to Simon Beale and Associates so very unsure as to what Simon Beale meant when he wrote in an email on the That 'you were contracted? A very interesting coincidence that his company has the name Adrachma and was established in 2014. My credit card attached to Ulster Bank became corrupted which was meant to happen in Greece in 2011.
- 5) The company Simon Beale and Associates appears to be all about getting paid rather than providing a service. This court can only find in the defendant's favour as she was duped by this company and then pursued aggressively and relentlessly for money that would provide her with nothing of value. It can not be a case of 'All animals are equal but some are more equal than others' to quote George Orwell.

AN CHÚIRT DÚICHE



THE DISTRICT COURT

Record No: 2020/00093

DISTRICT COURT AREA OF
Roscommon

BEFORE JUDGE JAMES FAUGHNAN

THE 14th DAY OF October 2021

BETWEEN

SIMON BEALE & ASSOCIATES

CLAIMANT

-AND-

PATRICIA BROWNE

RESPONDENT

The Respondent having been duly served with the Claim Notice herein and the same coming for hearing before the Court this day. WHEREUPON and on reading the pleadings and documents filed herein and on hearing the evidence adduced and what was offered by or on behalf of the Claimant and by or on behalf of the Respondent and it appearing to the Court that the Claimant is entitled to the sum of €1640.29 on foot of the Claim Notice

THE COURT DOTH ORDER

1. That the Claimant do recover from the Respondent the sum of €1640.29
2. That the Respondent do recover from the Claimant the sum of €1640.29 on foot of the Statement of Counterclaim dated 1st December 2020
3. No Order as to costs for either party


BY JUDGE OF THE DISTRICT COURT

THE 14th DAY OF October 2021

PLAINTIFF SOLICITOR
Company Name:
Address

BOURKE CARRIG & LOFTUS
TEELING STREET
BALLINA
CO. MAYO
F26K237

In depth Analysis of DED 507 Decision and An Bord Pleanála Appeal Process

Section 2, 3, 4 and 5 Planning and Development Act 2000 as amended - Printed

Articles 6 and 9 of Planning and Development Regulations 2001 as amended - Printed

Subsection 6c of Section 5 of Planning and Development Act 2000 as amended – Printed

Amendments – 1 printed for Exempted Developments

Section 127 of Planning and Development Acts 2000-

127.—(1) An appeal or referral shall— (a) be made in writing, 141 Pt.VI S.126 Provisions as to making of appeals and referrals. [No. 30.] Planning and Development Act, [2000.] 2000. Pt.VI S.127 Submission of documents, etc. to Board by planning authorities. 142 (b) state the name and address of the appellant or person making the referral and of the person, if any, acting on his or her behalf, (c) state the subject matter of the appeal or referral, (d) state in full the grounds of appeal or referral and the reasons, considerations and arguments on which they are based, (e) in the case of an appeal under section 37 by a person who made submissions or observations in accordance with the permission regulations, be accompanied by the acknowledgement by the planning authority of receipt of the submissions or observations, (f) be accompanied by such fee (if any) as may be payable in respect of such appeal or referral in accordance with section 144, and (g) be made within the period specified for making the appeal or referral. (2) (a) An appeal or referral which does not comply with the requirements of subsection (1) shall be invalid. (b) The requirement of subsection (1)(d) shall apply whether or not the appellant or person making the referral requests, or proposes to request, in accordance with section 134, an oral hearing of the appeal or referral. (3) Without prejudice to section 131 or 134, an appellant or person making the referral shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds of appeal or referral stated in the appeal or referral or to submit further grounds of appeal or referral and any such elaboration, submissions or further grounds of appeal or referral that is or are received by the Board shall not be considered by it. (4) (a) An appeal or referral shall be accompanied by such documents, particulars or other information relating to the appeal or referral as the appellant or person making the referral considers necessary or appropriate. (b) Without prejudice to section 132, the Board shall not consider any documents, particulars or other information submitted by an appellant or person making the referral other than the documents, particulars or other information which accompanied the appeal or referral. (5) An appeal or referral shall be made— (a) by sending the appeal or referral by prepaid post to the Board, (b) by leaving the appeal or referral with an employee of the Board at the offices of the Board during office hours (as determined by the Board), or (c) by such other means as may be prescribed

- (2) In Schedule 2, unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose "ground level" means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.
- Exempted Development. 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.
- (2) (a) Subject to article 9, development consisting of the use of a structure or other land for the exhibition of advertisements of a class specified in column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that—
- (i) such development complies with the conditions and limitations specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1, and
 - (ii) the structure or other land shall not be used for the exhibition of any advertisement other than an advertisement of a class which is specified in column 1 of the said Part 2 and which complies with the conditions and limitations specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1.
- (b) Subject to article 9, development consisting of the erection of any advertisement structure for the exhibition of an advertisement of any one of the classes specified in column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that—
- (i) the area of such advertisement structure which is used for the exhibition of an advertisement does not exceed the area, if any, specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1,
 - (ii) the advertisement structure is not used for the exhibition of advertisements other than advertisements of the class to which the exemption relates,
 - (iii) further to section 57 of the Act, the advertisement structure is not erected on a protected structure or a proposed protected structure save an advertisement structure referred to in Classes 5, 9 or 15 of column 1 of Part 2 of Schedule 2,
 - (iv) further to section 82 of the Act, the advertisement structure is not located on the exterior of a structure where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft development plan, so as to materially affect the character of the area, save an advertisement structure referred to in Classes 5, 9 or 15 of column 1 of Part 2 of Schedule 2, and
 - (v) where the advertisement structure is within a Gaeltacht area, any advertisement exhibited is—
 - (I) in Irish, or
 - (II) in Irish and other languages, with prominence given to the Irish text, and identical content in all versions of the text.
- (3) Subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), development of a class specified in column 1 of Part 3 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 3 opposite the mention of that class in the said column 1.
- (4) (a) Subject to paragraph (b), the carrying out of such works as are necessary to secure compliance with the Building Regulations, 1997 (S.I. No. 497 of 1997) shall, in the case of development consisting of the construction of a dwelling or dwellings in respect of which permission under Part IV of the Act of 1963 was granted before 1 June 1992, be exempted development.
- (b) Paragraph (a) shall not apply in the case of development consisting of the construction of a building designed for use as 2 or more separate dwellings.
- Development under other enactments. 7. (1) Works consisting of or incidental to the carrying out of development referred to in section 84 (4) (a) of the Environmental Protection Agency Act, 1992 (No. 7 of 1992) for the purpose of giving effect to a condition attached to a licence or revised licence granted by the Environmental Protection Agency under Part IV of the said Act shall be exempted development.
- (2) Works consisting of or incidental to the carrying out of development referred to in section 54 (4) (a) of the Waste Management Act, 1996 (No. 10 of 1996) for the purpose of giving effect to a condition attached to a licence or revised licence granted by the Environmental Protection Agency under Part V of the said Act shall be exempted development.

Works specified 8.

in a drainage
scheme

Works specified in a drainage scheme confirmed by the Minister for Finance under Part II of the Arterial Drainage Act, 1945 (No. 3 of 1945) or the Arterial Drainage (Amendment) Act, 1995 (No. 14 of 1995), carried out by, on behalf of, or in partnership with, the Commissioners, with such additions, omissions, variations and deviations or other works incidental thereto, as may be found necessary by the Commissioners or their agent or partner in the course of the works, shall be exempted development.

Restrictions on 9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—
exemption.

(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.

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area 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,

(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,

(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,

(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 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, save any excavation, pursuant to and in accordance with a licence granted under section 26 of the National Monuments Act, 1930 (No. 2 of 1930),

(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,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area 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,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area 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 and the development would materially affect the character of the area,

(b) in an area to which a special amenity area order relates, if such development would be development:—

- (i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or
 - (ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or
 - (iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or
 - (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,
- (c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,
- (d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.
- (2) Sub-article (1)(a)(vi) shall not apply where the development consists of the construction by any electricity undertaking of an overhead line or cable not exceeding 100 metres in length for the purpose of conducting electricity from a distribution or transmission line to any premises.

- Changes of use. 10. (1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—
- (a) involve the carrying out of any works other than works which are exempted development,
 - (b) contravene a condition attached to a permission under the Act,
 - (c) be inconsistent with any use specified or included in such a permission, or
 - (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.
- (2) (a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.
- (b) Nothing in any class in Part 4 of the Schedule 2 shall include any use—
- (i) as an amusement arcade,
 - (ii) as a motor service station,
 - (iii) for the sale or leasing, or display for sale or leasing, of motor vehicles,
 - (iv) for a taxi or hackney business or for the hire of motor vehicles,
 - (v) as a scrap yard, or a yard for the breaking of motor vehicles,
 - (vi) for the storage or distribution of minerals,
 - (vii) as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,
 - (vii) as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre), or
 - (viii) as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.
- (3) Development consisting of the provision within a building occupied by, or under the control of, a State authority of a shop or restaurant for visiting members of the public shall be exempted development for the purposes of the Act.
- (4) Development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for the accommodation of not more than 4 persons as overnight guest accommodation, shall be exempted development for the purposes of the Act, provided that such development would not contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.
- (5) Development consisting of the use of a house for child minding shall be exempted development for the purposes of the Act.
- Saver for certain 11. Development commenced prior to the coming into operation of this Part and which was exempted development for the purposes of the Act of 1963 or the 1994 Regulations, shall notwithstanding the repeal of that Act and the revocation of those Regulations, continue to be exempted development for the purposes of the Act.

Plans and Guidelines

Sites prescribed 12.
under section
10(2)(c) of Act.

The sites prescribed for the purposes of section 10(2)(c) of the Act shall be -

- (a) any area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act, 2000 (No. 38 of 2000), and
- (b) any area the subject of a notice under section 16 (2)(b) of the Wildlife (Amendment) Act, 2000 .

Authorities 13.
prescribed
under sections
11, 12 and 13 of
Act.

The prescribed authorities for the purposes of sections 11, 12 and 13 of the Act shall be—

- (a) the Minister,
- (b) the Board,
- (c) the Minister for Agriculture, Food and Rural Development,
- (d) the Minister for Arts, Heritage, Gaeltacht and the Islands,
- (e) the Minister for Defence,
- (f) the Minister for Education and Science,
- (g) the Minister for the Marine and Natural Resources,
- (h) the Minister for Public Enterprise,
- (i) Aer Rianta,
- (j) Bord Fáilte Éireann,
- (k) the Central Fisheries Board,
- (l) An Chomhairle Ealaíon,
- (m) the Commissioners,
- (n) in the case of a planning authority any part of whose functional area is affected by the DTI Strategy, the Dublin Transportation Office,
- (o) the Electricity Supply Board,
- (p) Forfás,
- (q) the appropriate health board,
- (r) the Heritage Council,
- (s) the National Authority for Occupational Safety and Health,
- (t) the National Roads Authority,
- (u) the appropriate Regional Fisheries Board,
- (v) in the case of a planning authority any part of whose functional area is situated within the functional area of the Shannon Free Airport Development Company Ltd., that Company,
- (w) An Taisce — the National Trust for Ireland,
- (x) any planning authority whose area is contiguous to the area of the planning authority which prepared the draft,
- (y) any local authority, including town commissioners, and any city and county development board in the area to which the draft relates, and
- (z) the regional authority or regional assembly within whose region the functional area of the planning authority is situated, and any regional authority whose region is contiguous to the region of the first-mentioned authority.

Authorities 14.
prescribed
under section 20
of Act.

The prescribed authorities for the purposes of section 20 of the Act shall be -

Authorities 15.
prescribed
under section 24
of the Act.

- (a) any local authority, including town commissioners, in the area to which the local area plan, proposed local area plan or proposed amended plan, as appropriate, relates, and any relevant city and county development board, and
- (b) any planning authority whose area is contiguous to the area to which the local area plan, proposed local area plan or proposed amended plan, as appropriate, relates.

The prescribed authorities for the purposes of section 24 of the Act shall be -

- (a) the Minister,
- (b) the Board,
- (c) the Minister for Agriculture, Food and Rural Development,
- (d) the Minister for Arts, Heritage, Gaeltacht and the Islands,
- (e) the Minister for Defence,
- (f) the Minister for Education and Science,
- (g) the Minister for the Marine and Natural Resources,
- (h) the Minister for Public Enterprise,
- (i) Aer Rianta,
- (j) Bord Fáilte Éireann,
- (k) the Central Fisheries Board and any Regional Fisheries Board whose area is within the region for which the guidelines are prepared,
- (l) An Chomhairle Ealaíon,
- (m) the Commissioners,
- (n) in any case where the Dublin Docklands Area is within the region for which the guidelines are prepared, to the Dublin Docklands Development Authority,
- (o) in any case where an area which is affected by the DTI Strategy is within the region for which the guidelines are prepared, the Dublin Transportation Office,
- (p) the Electricity Supply Board,
- (q) Forfás,
- (r) any health board whose area is within the region for which the guidelines are prepared,
- (s) the Heritage Council,
- (t) the National Authority for Occupational Safety and Health,
- (u) the National Roads Authority,
- (v) in any case where the functional area of the Shannon Free Airport Development Company Ltd. is within the region for which the guidelines are prepared, that Company,
- (w) An Taisce — the National Trust for Ireland,
- (x) any regional authority whose area is contiguous to the region for which the guidelines are prepared,
- (y) the regional assembly within whose region the region for which the guidelines are prepared is situated, and
- (z) any local authority, including town commissioners, in the region for which the guidelines are prepared.

PART 4

CONTROL OF DEVELOPMENT

Chapter 1

Permission Regulations - planning applications and decisions

- Planning application accompanied by EIS or which relates to establishment to which Major Accident Regulations apply.
16. (1) Any person who makes a planning application which is required to be accompanied by an EIS in accordance with section 172 of the Act or these Regulations shall comply with the requirements of Part 10 in addition to the requirements of this Part.
- (2) Any planning application for development of a type referred to in article 137(1)(a) shall be subject to the requirements of Part 11 in addition to the requirements of this Part.
- Notice of planning application.
17. (1) An applicant shall within the period of 2 weeks before the making of a planning application—
- (a) give notice of the intention to make the application in a newspaper in accordance with article 18, and
- (b) give notice of the intention to make the application by the erection or fixing of a site notice in accordance with article 19.
- (2) Where the last day of the 2 week period referred to in sub-article (1) is a Saturday, Sunday, a public holiday (within the meaning of the Organisation of Working Time Act, 1997 (No. 20 of 1997)), or any other day on which the offices of the planning authority are closed, the application shall be valid if received on the next following day on which the offices of the planning authority are open.
- (3) The requirement of sub-article (1)(b) shall not apply in relation to a planning application for development consisting of the construction or erection by an electricity undertaking of overhead transmission or distribution lines for conducting electricity, or development consisting of the construction or erection by any statutory undertaker authorised to provide a telecommunications service of overhead telecommunications lines.
- Notice in newspaper.
18. (1) A notice published in accordance with article 17(1)(a) shall be published in a newspaper approved for this purpose in accordance with sub-article (2), shall contain as a heading the name of the planning authority to which the planning application will be made and shall state—
- (a) the name of the applicant,
- (b) the location, townland or postal address of the land or structure to which the application relates (as may be appropriate),
- (c) whether the application is for permission for development, permission for retention of development, outline permission for development or permission consequent on the grant of outline permission (stating the reference number on the register of the relevant outline permission),
- (d) the nature and extent of the development, including—
- (i) where the application relates to development consisting of or comprising the provision of houses, the number of houses to be provided,
- (ii) where the application relates to the retention of a structure, the nature of the proposed use of the structure and, where appropriate, the period for which it is proposed to retain the structure,
- (iii) where the application relates to development which would consist of or comprise the carrying out of works to a protected structure or proposed protected structure, an indication of that fact,
- (iv) where the application relates to development which comprises or is for the purposes of an activity requiring an integrated pollution control licence or a waste licence, an indication of that fact, or
- (v) where a planning application relates to development in a strategic development zone, an indication of that fact, and
- (e) that the planning application may be inspected or purchased at the offices of the planning authority and a submission or observation in relation to the application may be made to the authority in writing on payment of the prescribed fee within the period of 5 weeks beginning on the date of receipt by the authority of the application.
- (2) (a) For the purposes of these Regulations, each planning authority shall approve a list of the newspapers, including national newspapers, it considers has a sufficiently large circulation in its functional area, and different newspapers may be approved in respect of different parts of such functional area.

(b) The list referred to in paragraph (a) shall be reviewed by the planning authority as may be appropriate and at least once a year.

(c) The list referred to in paragraph (a) shall be displayed in or at the offices of the planning authority or at any other place or by any other means, including in electronic form, that the authority considers appropriate and copies shall be made available at the offices of the planning authority during office hours, free of charge.

Site notice. 19. (1) A site notice erected or fixed on any land or structure in accordance with article 17(1)(b) shall be-

(a) in the form set out at Form No. 1 of Schedule 3 or a form substantially to the like effect,

(b) subject to sub-article (4), inscribed or printed in indelible ink on a white background, affixed on rigid, durable material and secured against damage from bad weather and other causes, and

(c) subject to sub-article (2), securely erected or fixed in a conspicuous position on or near the main entrance to the land or structure concerned from a public road, or where there is more than one entrance from public roads, on or near all such entrances, or on any other part of the land or structure adjoining a public road, so as to be easily visible and legible by persons using the public road, and shall not be obscured or concealed at any time.

(2) Where the land or structure to which a planning application relates does not adjoin a public road, a site notice shall be erected or fixed in a conspicuous position on the land or structure so as to be easily visible and legible by persons outside the land or structure, and shall not be obscured or concealed at any time.

(3) Where a planning authority considers that the erection or fixing of a single site notice is not sufficient to comply with the requirements of sub-articles (1) and (2), or does not adequately inform the public, the authority may require the applicant to erect or fix such further site notice or notices in such a manner and in such terms as it may specify and to submit to the authority such evidence as it may specify in relation to compliance with any such requirements.

(4) Where a planning application is made in respect of any land or structure, and a subsequent application is made within 6 months from the date of making the first application in respect of land substantially consisting of the site or part of the site to which the first application related, in lieu of the requirements of sub-article (1)(b), the site notice shall be inscribed or printed in indelible ink on a yellow background and affixed on rigid, durable material and be secured against damage from bad weather and other causes.

Time limits for 20. In addition to the requirements of article 17(1)(b), a site notice shall be maintained in position on the land or structure site notice. concerned for a period of 5 weeks from the date of receipt of the planning application by the planning authority and shall be renewed or replaced if it is removed or becomes defaced or illegible within that period.

Restriction on 21. Notwithstanding section 36 of the Act, an outline application may not be made for permission for-
outline
application.

(a) retention of development,

(b) development which would consist of or comprise the carrying out of works to a protected structure or a proposed protected structure, or

(c) development which comprises or is for the purposes of an activity requiring an integrated pollution control licence or a waste licence.

Content of 22. (1) A planning application shall-
planning
applications
generally.

(a) state whether the application is for permission for development, permission for retention of development, outline permission for development or permission consequent on the grant of outline permission (stating the reference number on the register of the relevant outline permission),

(b) (i) state the name and address, and telephone number and e-mail address, if any, of the applicant and of the person, if any, acting on behalf of the applicant.

(ii) indicate the address to which any correspondence relating to the application should be sent,

(iii) where an applicant referred to in sub-article (i) is a company registered under the Companies Acts, 1963 to 1999, state the names of the company directors and the address and registration number of the company,

(c) state the location, townland or postal address of the land or structure concerned, (as may be appropriate),

(d) state the legal interest of the applicant in the land or structure and, if the applicant is not the owner, state the name and address of the owner,

- (e) state the area of the land to which the application relates and, where the application relates to a building or buildings,-
 - (i) the gross floor space of any existing building or buildings and of the proposed works, and
 - (ii) the number of houses (if any) to be provided,
 - (f) indicate if the development comprises or is for the purposes of an activity in relation to which an integrated pollution control licence or a waste licence is required,
 - (g) indicate if the development consists of or comprises the carrying out of works to a protected structure or proposed protected structure, and
 - (h) in the case of an application for permission for the development of houses or of houses and other development, to which section 96 of the Act applies, specify how the applicant proposes to comply with a condition referred to in sub-section (2) of that section to which the permission, if granted, would be subject.
- (2) A planning application referred to in sub-article (1) shall be accompanied by —
- (a) the relevant page of the newspaper in which notice of the application has been published pursuant to article 17(1)(a), and a copy of the site notice erected or fixed on the land or structure pursuant to article 17(1)(b).
 - (b) 6 copies of a location map of sufficient size and containing details of features in the vicinity such as to permit the identification of the site to which the application relates, to a scale of not less than 1:1000 in built up areas and 1:1250 in all other areas (which shall be identified thereon) and marked or coloured so as to identify clearly the land or structure to which the application relates and the boundaries thereof,
 - (c) a plan showing the position of a site notice or notices affixed to the land or structure pursuant to article 17(1)(b),
 - (d) the documents, particulars, plans, drawings and maps referred to in sub-article (3) and a schedule listing such plans, drawings and maps,
 - (e) where appropriate, a certificate issued by the planning authority in accordance with section 97 of the Act, or if such certificate has been applied for but not issued, a copy of the application made in accordance with article 48, and
 - (f) the appropriate fee as set out in Schedule 9.
- (3) Subject to articles 24 and 25-
- (a) a planning application in respect of any development consisting of or mainly consisting of the carrying out of works on, in, over or under land or for the retention of such works shall be accompanied by 6 copies of such plans (including a site or layout plan and drawings of floor plans, elevations and sections which comply with the requirements of article 23), and such other particulars, as are necessary to describe the works to which the application relates,
 - (b) a planning application for any development consisting of or mainly consisting of the making of any material change in the use of any structure or other land, or for the retention of any such material change of use, shall be accompanied by-
 - (i) a statement of the existing use and of the use proposed together with particulars of the nature and extent of any such proposed use,
 - (ii) where the development to which the application relates comprises the carrying out of works on, in, over or under the structure or other land, 6 copies of such plans (including a site or layout plan and drawings of floor plans, elevations and sections which comply with the requirements of article 23), and such other particulars, as are necessary to describe the works proposed,
 - (iii) such plans and such other particulars as are necessary to identify the area to which the application relates.
- Requirements 23. (1) Plans, drawings and maps accompanying a planning application in accordance with article 22 shall all be in metric scale and for plans, drawings, maps referred to in article 22. comply with the following requirements:
- (a) site or layout plans shall be drawn to a scale of not less than 1:500 (which shall be indicated thereon), the site boundary shall be clearly delineated in red, and buildings, roads, boundaries, septic tanks and percolation areas, bored wells, significant tree stands and other features on, adjoining or in the vicinity of the land or structure to which the application relates shall be shown, land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant or the person who owns the land which is the subject of the application shall be outlined in blue and wayleaves shall be shown in yellow,
 - (b) other plans, elevations and sections shall be drawn to a scale of not less than 1:200 (which shall be indicated thereon), or such other scale as may be agreed with the planning authority prior to the submission of the application in any particular case,

- (c) the site layout plan and other plans shall show the level or contours, where applicable, of the land and the proposed structures relative to Ordnance Survey datum or a temporary local benchmark,
- (d) drawings of elevations of any proposed structure shall show the main features of any buildings which would be contiguous to the proposed structure if it were erected, whether on the application site or in the vicinity, at a scale of not less than 1:200, as may be appropriate,
- (e) plans relating to works comprising reconstruction, alteration or extension of a structure shall be so marked or coloured as to distinguish between the existing structure and the works proposed.
- (f) plans and drawings of floor plans, elevations and sections shall indicate in figures the principal dimensions (including overall height) of any proposed structure and the site, and site or layout plans shall indicate the distances of any such structure from the boundaries of the site,
- (g) any map or plan which is based on an Ordnance Survey map shall indicate the relevant Ordnance Survey sheet number,
- (h) the north point shall be indicated on all maps and plans other than drawings of elevations and sections,
- (i) plans and drawings shall indicate the name and address of the person by whom they were prepared.

- (2) A planning application for development consisting of or comprising the carrying out of works to a protected structure, or proposed protected structure or to the exterior of a structure which is located within an architectural conservation area or an area specified as an architectural conservation area in a draft of a proposed development plan or a proposed variation of a development plan, shall, in addition to meeting the requirements of sub-article (1), be accompanied by such photographs, plans and other particulars as are necessary to show how the development would affect the character of the structure.
- (3) A planning authority may, by notice in writing, require an applicant to provide additional copies of any plan, drawing, map, photograph or other particular which accompanies the planning application.
- (4) In addition to the requirements of article 22, a planning authority may request an applicant to provide a scale model of a proposed development, showing the elevations and perspective of the proposed development.

Plans and particulars to accompany application for outline permission.

24. Notwithstanding article 22(2)(d), an outline application shall, in addition to the requirements of article 22(2), be accompanied only by such plans and particulars as are necessary to enable the planning authority to make a decision in relation to the siting, layout or other proposals for development in respect of which a decision is sought.

Planning application by electricity undertaking.

25. (1) Article 22(3) shall not apply to a planning application for development consisting of the construction or erection by an electricity undertaking of overhead transmission or distribution lines for conducting electricity.
- (2) A planning application referred to in sub-article (1) shall, in addition to the requirements of article 22(2), be accompanied by 6 copies of such plans and drawings drawn to a scale of not less than 1:100, as are necessary to describe any form of structure or apparatus which will support, or form part of, the lines referred to in the said sub-article.
- (3) (a) A reference to article 22 in any other provision of these Regulations shall, in the case of a planning application referred to in sub-article (1), be construed as a reference to this article.
- (b) Article 23(1), other than paragraphs (g), (h) and (i) thereof, shall not apply to a planning application referred to in sub-article (1).

Procedure on receipt of planning application.

26. (1) Subject to sub-article (3), on receipt of a planning application, a planning authority shall-
- (a) stamp each document with the date of its receipt, and
 - (b) consider whether the applicant has complied with the requirements of articles 18, 19(1)(a) or 22 and, as may be appropriate, of article 24 or 25.
- (2) Where a planning authority considers that a planning application complies with the requirements of articles 18, 19(1)(a) or 22 and, as may be appropriate, of article 24 or 25, it shall send to the applicant an acknowledgement stating the date of receipt of the application as soon as may be after the receipt of the application.
- (3) Where, following consideration of an application under sub-article (1)(b), a planning authority considers that-

(a) any of the requirements of articles 18, 19(1)(a) or 22 and, as may be appropriate, of article 24 or 25 has not been complied with, or

(b) the notice in the newspaper or the site notice, because of its content or for any other reason, is misleading or inadequate for the information of the public.

the planning application shall be invalid.

(4) Where, on inspection of the land to which the application relates, the planning authority considers that the requirements of articles 17(1)(b) or 19 have not been met, the planning application shall, notwithstanding the fact that an acknowledgement has been sent to an applicant in accordance with sub-article (2), be invalid.

(5) A planning authority shall as soon as may be after receipt of an invalid application-

(a) by notice in writing-

(i) inform the applicant that the application is invalid and cannot be considered by the planning authority,

(ii) indicate which requirements of the permission regulations have not been complied with, and

(iii) request the applicant to remove the site notice or notices erected or fixed pursuant to article 17(1)(b),

(b) return to the applicant the planning application, including all particulars, plans, drawings and maps, and

(c) enter details of the invalid application in the register.

(6) Where a notice is served in accordance with sub-article (5) on an applicant, the planning authority shall return to the applicant any fee paid with the application.

(7) Sub-articles (3) and (4) shall not apply where the planning authority is satisfied that the applicant complied with the provisions of articles 17, 18 and 19 but that any site notice erected by the applicant has been maliciously defaced or destroyed by any person other than the applicant.

(8) Where a notice is served in accordance with sub-article (5) on an applicant, the planning authority shall by notice in writing-

(a) inform any person or body who has made a submission or observation in accordance with article 29(1) of that fact and return any fee paid in respect of any such submission or observation, and

(b) inform any body to whom notice was sent in accordance with article 28(2) of that fact.

Weekly list of
planning
applications.

27. (1) A planning authority shall, not later than the third working day following a particular week, make available in accordance with sub-article (2) a list of the planning applications received by the authority during that week.

(2) A list referred to in sub-article (1) shall indicate in respect of each planning application received during the week to which the list relates—

(a) the name and address of the applicant,

(b) whether the application is for permission for development, permission for retention of development, outline permission for development or permission consequent on the grant of outline permission (stating the reference number on the register of the relevant outline permission),

(c) the location, townland or postal address of the land or structure to which the application relates (as may be appropriate),

(d) the nature and extent of the development, including-

(i) where the application relates to development consisting of or comprising the provision of houses, the number of houses to be provided,

(ii) where the application relates to the retention of a structure, the nature of the proposed use of the structure and where appropriate, the period for which it is proposed to be retained,

(iii) where development relates to a protected structure or a proposed protected structure, an indication of that fact,

(iv) where the application relates to development which comprises or is for the purposes of an activity requiring an integrated pollution control licence or a waste licence, an indication of that fact,

(v) where a planning application relates to development in a strategic development zone, an indication of that fact, and

(e) the date of receipt of the application.

(3) A list referred to in sub-article (1) shall, in addition to the requirements of sub-article (2), indicate any planning application in respect of which—

(a) the planning authority has served a notice under article 26(5),

- (b) further information or evidence or revised plans, drawings or particulars have been received by the planning authority pursuant to a requirement under articles 33 or 34.
- (4) A planning authority may include in a list referred to in sub-article (1) any other information in respect of planning applications which the authority considers appropriate.
- (5) (a) The list referred to in sub-article (1) shall, for a period of not less than 8 weeks beginning on the day on which it is made available for inspection, be made available in or at the offices of the planning authority, and in each public library and mobile library in the functional area of the authority, in a position convenient for inspection during office hours and at any other place or by any other means, including in electronic form, that the authority considers appropriate.
- (b) Copies of the list referred to in sub-article (1) shall, for a period of not less than 8 weeks beginning on the day on which it is made available, be made available at the offices of the planning authority during office hours, free of charge or for such fee as the authority may fix not exceeding the reasonable cost of making a copy and shall be sent, on request, to any person or body, free of charge or for such fee, not exceeding the reasonable cost of making the copy and the cost of postage, as the authority may fix.
- (c) A list referred to in sub-article (1) shall be made available to the members of the planning authority in such manner as they may, by resolution, direct.

Notice to certain
bodies.

- (1) Where a planning authority receives a planning application, the authority shall, except in the case of an application in respect of which a notice in accordance with article 26(5) has been or will be given, send notice in accordance with sub-article (2) as soon as may be after receipt of the application—
 - (a) where it appears to the authority that the land or structure is situated in an area of special amenity, whether or not an order in respect of that area has been confirmed under section 203 (or deemed to be so confirmed under section 268(1)(c) of the Act, or that the development or retention of the structure might obstruct any view or prospect of special amenity value or special interest — to An Chomhairle Ealaíon, Bord Fáilte Éireann, and An Taisce — the National Trust for Ireland,
 - (b) where it appears to the authority that the development might obstruct or detract from the value of any tourist amenity or tourist amenity works—to Bord Fáilte Éireann,
 - (c) where it appears to the authority that the development—
 - (i) would involve the carrying out of works to a protected structure or proposed protected structure, or to the exterior of a structure which is located within an architectural conservation area or an area specified as an architectural conservation area in a draft of a proposed development plan or a proposed variation of a development plan,
 - (ii) might detract from the appearance of a structure referred to in sub-paragraph (i),
 - (iii) might affect or be unduly close to-
 - (I) a cave, site, feature or other object of archaeological, geological, scientific, ecological or historical interest,
 - (II) a monument or place recorded under section 12 of the National Monuments (Amendment) Act, 1994 (No. 17 of 1994),
 - (III) a historic monument or archaeological area entered in the Register of Historic Monuments under Section 5 of the National Monuments (Amendment) Act, 1987 (No. 17 of 1987),
 - (IV) a national monument in the ownership or guardianship of the Minister for Arts, Heritage, Gaeltacht and the Islands under the National Monuments Acts, 1930 to 1994, or
 - (iv) might obstruct any scheme for improvement of the surroundings of or any means of access to any structure, place, feature or object referred to in sub-paragraph (iii),
 - to the Minister for Arts, Heritage, Gaeltacht and the Islands, the Heritage Council, and An Taisce — the National Trust for Ireland, and in the case of development of a type referred to in sub-paragraph (i) or (ii), An Chomhairle Ealaíon and Bord Fáilte Éireann,
 - (d) where it appears to the authority that the area of another local authority might be affected by the development — to that local authority,
 - (e) where it appears to the authority that the development would not be consistent with or would materially contravene any regional planning guidelines (or any objective thereof) of a regional authority— to that regional authority,
 - (f) where it appears to the authority that if permission were granted, a condition should be attached under section 34 (4) (m) of the Act— to any local authority (other than the planning authority) who would be affected by any such condition,
 - (g) where it appears to the authority that -

- (i) the development might cause the significant abstraction or addition of water either to or from surface or ground waters, whether naturally occurring or artificial,
 - (ii) the development might give rise to significant discharges of polluting matters or other materials to such waters or be likely to cause serious water pollution or the danger of such pollution, or
 - (iii) the development would involve the carrying out of works in, over, along or adjacent to the banks of such waters, or to any structure in, over or along the banks of such waters, which might materially affect the waters,
- to the appropriate Regional Fisheries Board and, in any case where the waters concerned are listed in Part 1 of Annex 1 of the Schedule to the British-Irish Agreement Act, 1999 (No. 1 of 1999), to Waterways Ireland,
- (h) where it appears to the authority that the development might endanger or interfere with the safety of, or the safe and efficient navigation of, aircraft — to the Irish Aviation Authority,
 - (i) where it appears to the authority that the development might interfere with the operation and development of a licensed airport, whose annual traffic is not less than 1 million passenger movements — to the airport operator,
 - (j) where it appears to the authority that -
 - (i) the development consists of or comprises the formation, laying out or material widening of an access to a national road within the meaning of section 2 of the Roads Act, 1993 (No. 14 of 1993), not being a national road within a built-up area within the meaning of section 45 of the Road Traffic Act, 1961, or
 - (ii) the development might give rise to a significant increase in the volume of traffic using a national road,
 - to the National Roads Authority,
 - (k) where it appears to the authority that the development might significantly impact on the implementation of the DTI Strategy — to the Dublin Transportation Office,
 - (l) where the development comprises or is for the purposes of an activity requiring an integrated pollution control licence or a waste licence— to the Environmental Protection Agency,
 - (m) where it appears to the authority that the development might have significant effects in relation to nature conservation —to the Heritage Council, the Minister for Arts, Heritage, Gaeltacht and the Islands and An Taisce - the National Trust for Ireland,
 - (n) where the development is in a Gaeltacht area and it appears to the authority that it might materially affect the linguistic and cultural heritage of the Gaeltacht, including the promotion of Irish as the community language — to the Minister for Arts, Heritage, Gaeltacht and the Islands and Údarás na Gaeltachta,
 - (o) where the development is in the vicinity of an explosives factory, storage magazine or local authority explosives store— to the Minister of Justice, Equality and Law Reform,
 - (p) where the application relates to development for the purposes of breeding or rearing of salmonid fish — to the Minister for the Marine and Natural Resources and the appropriate Regional Fisheries Board,
 - (q) where the application relates to development for the purposes of initial afforestation or the replacement of broadleaf high forest by conifer species — to the Minister for the Marine and Natural Resources, The Heritage Council and An Taisce - the National Trust for Ireland,
 - (r) where it appears to the authority that the development might have significant effects on public health — to the appropriate Health Board,
 - (s) where the application relates to extraction of minerals within the meaning of the Minerals Development Act, 1940 to 1995 — to the Minister for the Marine and Natural Resources,
 - (t) where it appears to the authority that the development might impact on the foreshore—to the Minister for the Marine and Natural Resources,
 - (u) where the application relates to development of the electricity transmission system or the provision of, or extension to, an electricity generating station — to the Commission for Electricity Regulation.
- (2) Notice given by a planning authority pursuant to sub-article (1) shall include a copy of the planning application referred to in article 22(1) and shall state-
- (a) the date of receipt by the authority of the application, and
 - (b) that any submission or observation made to the authority in relation to the application within a period of 5 weeks beginning on the date of receipt by the authority of the application will be taken into account by the authority in making its decision on the application.



PLANNING AND DEVELOPMENT ACT 2000 (EXEMPTED
DEVELOPMENT) REGULATIONS 2021

WHEREAS I, PETER BURKE, Minister of State at the Department of Housing, Local Government and Heritage, am of the opinion that development to which the following regulations apply would not offend against principles of proper planning and sustainable development by reason of the nature and limited effect of development belonging to that class on its surroundings; and

WHEREAS a draft of the following regulations has been laid before each House of the Oireachtas and a resolution approving that draft has been passed by each such House;

STATUTORY INSTRUMENTS.

S.I. No. 114 of 2021

NOW I, PETER BURKE, Minister of State at the Department of Housing, Local Government and Heritage, in exercise of the powers conferred on me by subsection (2) of section 4 and section 262 of the Planning and Development Act 2000 (No. 30 of 2000) (as adapted by the Housing, Planning and Local Government (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 408 of 2020)) and by the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2020 (S.I. 559/2020), hereby make the following regulations:

PLANNING AND DEVELOPMENT ACT 2000 (EXEMPTED
DEVELOPMENT) REGULATIONS 2021

1. (1) These Regulations may be cited as the Planning and Development Act 2000 (Exempted Development) Regulations 2021.

(2) These Regulations shall be included in the collective citation the Planning and Development Regulations 2001 to 2021.

2. Schedule 2 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended, in Part 1, by –

(a) the substitution of the following text for the text in column (1) under the heading CLASS 20C:

“Temporary use as a school of any structure formerly used as a school, hall, club, art gallery, museum, library, reading room, gymnasium, or other public building, or any structure normally used for religious instruction”;

(b) the insertion of the following after CLASS 20C:

<p>CLASS 20D Development consisting of – The erection on land on which a school is situated of a structure to facilitate the continued delivery of education.</p>	<ol style="list-style-type: none"> 1. No such structure shall be erected for a period exceeding 5 years. 2. The gross floor area of such structure shall not exceed 30% of the gross floor area of the existing school. 3. No such structure shall exceed two storeys. 4. Distance to party boundary - <ol style="list-style-type: none"> (a) any single storey structure shall be a distance of not less than 2 metres from any party boundary, (b) any two-storey extension facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling, or (c) any two-storey extension closer than 12.5m to a party boundary, or facing and closer than 22 metres to the dwelling shall - <ol style="list-style-type: none"> (i) have no windows overlooking, or (ii) have obscure glass. 5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.
---	--

(c) the substitution of the following text for the text in column (1) under the heading CLASS 57:

“The extension of a school, where the school has not been previously extended under a CLASS 57 exemption, by the construction or erection of an extension to the side or rear of the school.”

(d) the substitution of the following text for the text in column (2) in so far as it relates to CLASS 57:

1. The floor area of any such extension shall not exceed 210 square metres.
2. No such structure shall be above the ground floor.
3. Any extension shall be a distance of not less than 2 metres from any party boundary.
4. An exemption under this class shall only be availed of once.
5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.

GIVEN under my hand,
16 March, 2021.

PETER BURKE,
Minister of State at the Department of Housing, Local
Government and Heritage

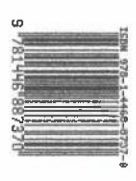
BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN ISOLÁTHAIR
Le ceannach díreach ó
FOILSEACHAIN RIALTAIN,
52 FAICHE STAIRBHA, BAILE ÁTHA CLIATH 2,
D02 DR67.

Tel: 076 110 6834
E-mail: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2,
D02 DR67.

Tel: 076 110 6834
E-mail: publications@opw.ie

€ 3.00



(PPS 12) 75. 3/2L. Prosjéan



Number 30 of 2000

PLANNING AND DEVELOPMENT ACT, 2000

AN ACT TO REVISE AND CONSOLIDATE THE LAW RELATING TO PLANNING AND DEVELOPMENT BY REPEALING AND RE-ENACTING WITH AMENDMENTS THE LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS 1963 TO 1999; TO PROVIDE, IN THE INTERESTS OF THE COMMON GOOD, FOR PROPER PLANNING AND SUSTAINABLE DEVELOPMENT INCLUDING THE PROVISION OF HOUSING; TO PROVIDE FOR THE LICENSING OF EVENTS AND CONTROL OF FUNRAIRS; TO AMEND THE ENVIRONMENTAL PROTECTION AGENCY ACT, 1992; THE ROADS ACT, 1993; THE WASTE MANAGEMENT ACT, 1994; AND CERTAIN OTHER ENACTMENTS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH. [28th August, 2000]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

1.—This Act may be cited as the Planning and Development Act, 2000.

2.—(1) In this Act, except where the context otherwise requires— Interpretation

“acquisition of land” shall be construed in accordance with section 213(2), and cognate words shall be construed accordingly;

“the Act of 1919” means the Acquisition of Land (Assessment of Compensation) Act, 1919;

“the Act of 1934” means the Town and Regional Planning Act, 1934;

“the Act of 1963” means the Local Government (Planning and Development) Act, 1963;

“the Act of 1976” means the Local Government (Planning and Development) Act, 1976;

“the Act of 1982” means the Local Government (Planning and Development) Act, 1982;

PLI S.2

[No. 30.] Planning and Development Act [2000.] 2000.

“the Act of 1990” means the Local Government (Planning and Development) Act, 1990;

“the Act of 1992” means the Local Government (Planning and Development) Act, 1992;

“the Act of 1993” means the Local Government (Planning and Development) Act, 1993;

“the Act of 1998” means the Local Government (Planning and Development) Act, 1998;

“the Act of 1999” means the Local Government (Planning and Development) Act, 1999;

“advertisement” means any word, letter, model, balloon, inflatable structure, kite, poster, notice, device or representation employed for the purpose of advertisement, announcement or direction;

“advertisement structure” means any structure which is a hoarding, scaffold, framework, pole, standard, device or sign (whether illuminated or not) and which is used or intended for use for exhibiting advertisements or any attachment to a building or structure used for advertising purposes;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature 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;

“alteration” includes—

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

“appeal” means an appeal to the Board;

“architectural conservation area” shall be construed in accordance with section 81(1);

“area of special planning control” shall be construed in accordance with section 85(8);

“attendant grounds”, in relation to a structure, includes land lying outside the curtilage of the structure;

“the Birds Directive” means Council Directive No. 79/409/EEC of 2 April 1979^(a) on the conservation of wild birds;

“Board” means An Bord Pleanála;

“chairperson” means the chairperson of the Board;

“Commissioners” means the Commissioners of Public Works in Ireland;

“company”, except in section 149(5), means a company within the meaning of section 2 of the Companies Act, 1963, or a company incorporated outside the State;

^(a) O.J. No. L 103/1, 25.1.1979

"Council Directive" means Council Directive No. 85/337/EEC of 27 June 1985⁽¹⁾ on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive No. 97/11/EC of 3 March 1997⁽²⁾ and any directive amending or replacing those directives;

"dangerous substance" has the meaning assigned to it by the Major Accidents Directive;

"deputy chairperson" means the deputy chairperson of the Board;

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

"development plan" means a development plan under section 9(1);

"endangered" means exposed to harm, decay or damage, whether immediately or over a period of time, through neglect or through direct or indirect means;

"enforcement notice" means an enforcement notice under section 134;

"environmental impact statement" means a statement of the effects, if any, which proposed development, if carried out, would have on the environment;

"European site" means—

(a) a site—

(i) notified for the purposes of Regulation 4 of the European Communities (Natural Habitats) Regulations, 1997 (S.I. No. 94 of 1997), subject to any amendments made to it by virtue of Regulation 5 of those regulations; or

(ii) transmitted to the Commission in accordance with Regulation 5(4) of the said regulations; or

(iii) added by virtue of Regulation 6 of the said regulations to the list transmitted to the Commission in accordance with Regulation 5(4) of the said Regulations;

but only until the adoption in respect of the site of a decision by the Commission under Article 21 of the Habitats Directive for the purposes of the third paragraph of Article 4(2) of that Directive;

(b) a site adopted by the Commission as a site of Community importance for the purposes of Article 4(2) of the Habitats Directive in accordance with the procedure laid down in Article 21 of that Directive;

(c) a special area of conservation within the meaning of the European Communities (Natural Habitats) Regulations, 1997;

(d) an area classified pursuant to paragraph (1) or (2) of Article 4 of the Birds Directive;

"exempted development" has the meaning specified in section 4;

"exhibit", in relation to an advertisement, includes affix, inscribe, print, paint, illuminate and otherwise delineate;

"existing establishment" has the meaning that it has in the Major Accidents Directive;

"fence" includes a hoarding or similar structure but excludes any bank, wall or other similar structure composed wholly or mainly of earth or stone;

"functional area" means, in relation to a planning authority—

(a) in the case of the council of a county, its administrative county, excluding any borough or urban district;

(b) in the case of any other planning authority, its administrative area;

"functions" includes powers and duties;

"Gaeltacht" means the Gaeltacht within the meaning of the Ministers and Secretaries (Amendment) Act, 1956;

"habitable house" means a house which—

(a) is used as a dwelling;

(b) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict; or

(c) was provided for use as a dwelling but has not been occupied;

"Habitats Directive" means Council Directive No. 92/43/EEC of 21 May 1992⁽³⁾ on the conservation of natural habitats and of wild fauna and flora;

"house" means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

"integrated pollution control licence" means a licence under Part IV of the Environmental Protection Agency Act, 1992;

"land" includes any structure and any land covered with water (whether inland or coastal);

"local area plan" means a local area plan under section 18;

"local authority" means a local authority for the purposes of the Local Government Act, 1941;

"major accident" has the meaning assigned to it by the Major Accidents Directive;

"Major Accidents Directive" means Council Directive 96/82/EC of 9 December 1996⁽⁴⁾ on the control of major accident hazards involving dangerous substances;

⁽¹⁾ O.J. No. L 206/7, 22.7.1982

⁽²⁾ O.J. No. L 10 of 14.1.1997, p. 13

"manager" means—

(a) with respect to the corporation of a county borough, the manager for the purpose of the Acts relating to the management of the county borough, and

(b) with respect to the council of a county, the corporation of a borough or an urban district council, the manager for the purposes of the County Management Acts, 1940 to 1994.

"Minister" means the Minister for the Environment and Local Government;

"new establishment" has the meaning that it has in the Major Accidents Directive;

"occupier", in relation to a protected structure or a proposed protected structure, means—

(a) any person in or entitled to immediate use or enjoyment of the structure,

(b) any person entitled to occupy the structure, and

(c) any other person having, for the time being, control of the structure;

"ordinary member" means a member of the Board other than the chairperson;

"owner", in relation to land, means a person, other than a mortgagee in possession, who, whether in his or her own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let;

"party to an appeal or referral" means the planning authority and any of the following persons, as appropriate—

(a) the appellant;

(b) the applicant for any permission in relation to which an appeal is made by another person (other than a person acting on behalf of the appellant);

(c) in the case of a referral under section 5, the person making the referral, and any other person notified under subsection (2) of that section;

(d) in the case of a referral under section 34(3), the applicant for the permission which was granted;

(e) in the case of a referral under section 37(5), the person who made the application for permission which was returned by the planning authority;

(f) any person served or issued by a planning authority with a notice or order, or copy thereof, under sections 44, 45, 48, 88 and 207;

(g) in the case of a referral under section 96(5), a prospective party to an agreement under section 96(2);

(h) in the case of an appeal under section 169, the development agency;

(i) in the case of a referral under section 193, the person by whom the application for permission for erection of the new structure was made;

(j) the applicant for a licence under section 254 in relation to which an appeal is made by another person (other than a person acting on behalf of the appellant);

and "party" shall be construed accordingly;

"permission regulations" means regulations under section 33, 172(2) or 174;

"planning application" means an application to a planning authority in accordance with permission regulations for permission for the development of land required by those regulations;

"planning authority" means—

(a) in the case of a county, exclusive of any borough or urban district therein, the council of the county;

(b) in the case of a county or other borough, the corporation of the borough, and

(c) in the case of an urban district, the council of the urban district;

and references to the area of the planning authority shall be construed accordingly and shall include the functional area of the authority;

"prescribed" means prescribed by regulations made by the Minister and "prescribe" shall be construed accordingly;

"proposed protected structure" means a structure in respect of which a notice is issued under section 12(2) or under section 55 proposing to add the structure, or a specified part of it, to a record of protected structures, and, where that notice so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

"protected structure" means—

(a) a structure, or

(b) a specified part of a structure,

which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

"protection", in relation to a structure or part of a structure, includes conservation, preservation and improvement compatible with maintaining the character and interest of the structure or part;

"public place" means any street, road, seashore or other place to which the public have access whether as of right or by permission and whether subject to or free of charge;

"public road" has the same meaning as in the Roads Act, 1993;

"record of protected structures" means the record included under section 51 in a development plan;

[2000.] *Planning and Development Act, 2000.* [No. 30.]

"referral" means a referral to the Board under section 5, 34(5), 37(5), 96(5) or 193(2);

"regional authority" means a body established in accordance with section 43 of the Local Government Act, 1991;

"regional planning guidelines" means regional planning guidelines made under Chapter III of Part II;

"register" means the register kept under section 7;

"registering authority" means a registering authority within the meaning of the Registration of Title Act, 1964;

"reserved function" means—

(a) with respect to the council of a county or an elective body for the purposes of the County Management Acts, 1940 to 1994, a reserved function for the purposes of those Acts, and

(b) with respect to the corporation of a county borough, a reserved function for the purposes of the Acts relating to the management of the county borough;

"risk" has the meaning assigned to it by the Major Accidents Directive;

"road" has the same meaning as in the Roads Act, 1993;

"seashore" has the same meaning as in the Foreshore Act, 1933;

"shares" includes stock and "share capital" shall be construed accordingly;

"special amenity area order" means an order confirmed under section 203;

"State authority" means—

(a) a Minister of the Government, or

(b) the Commissioners;

"statutory undertaker" means a person, for the time being, authorised by or under any enactment or instrument under an enactment to—

(a) construct or operate a railway, canal, inland navigation, dock, harbour or airport,

(b) provide, or carry out works for the provision of, gas, electricity or telecommunications services, or

(c) provide services connected with, or carry out works for the purposes of the carrying on of the activities of, any public undertaking;

"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, and—

PL1 S2

[No. 30.] *Planning and Development Act, 2000.* [2000.]

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

"substratum of land" means any subsoil or anything beneath the surface of land required—

(a) for the purposes of a tunnel or tunnelling or anything connected therewith, or

(b) for any other purpose connected with a scheme within the meaning of the Roads Act, 1993;

"Transboundary Convention" means the United Nations Economic Commission for Europe Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo (Finland), on 25 February, 1991;

"traveller" means a traveller within the meaning of section 2 of the Housing (Traveller Accommodation) Act, 1998;

"unauthorised development" means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use;

"unauthorised structure" means a structure other than—

(a) a structure which was in existence on 1 October 1964, or

(b) a structure, the construction, erection or making of which was the subject of a permission for development granted under Part IV of the Act of 1963 or deemed to be such under section 92 of that Act or under section 34 of this Act, being a permission which has not been revoked, or which exists as a result of the carrying out of exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act);

"unauthorised use" means, in relation to land, use commenced on or after 1 October 1964, being a use which is a material change in use of any structure or other land and being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 or under section 34 of this Act, being a permission which has not been revoked.

and which is carried out in compliance with that permission or any condition to which that permission is subject;

PL1 S.2

"unauthorised works" means any works on, in, over or under land commenced on or after 1 October 1984, being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 or under section 34 of this Act, being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;

"use" in relation to land, does not include the use of the land by the carrying out of any works thereon;

"warning letter" means a notification in writing under section 152(1);

"waste licence" means a waste licence under Part V of the Waste Management Act, 1996;

"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;

(2) In this Act—

(a) a reference to a section, Schedule, Chapter or Part is to a section, Schedule, Chapter or Part of this Act, unless it is indicated that reference to some other enactment is intended, and

(b) a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended;

(3) In this Act, a reference to the carrying out of development on behalf of a State authority shall, where that authority is a Minister of the Government, be construed as including a reference to the carrying out of development by the Commissioners on behalf of the Minister;

(4) A reference in this Act to contravention of a provision includes, where appropriate, a reference to refusal or failure to comply with that provision.

(5) A reference in this Act to performance of functions includes a reference to the exercise of powers and the performance of duties;

(6) A reference in this Act to any other enactment shall, except where the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

PL1 S.2

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

Exempted development

4—(1) The following shall be exempted developments for the purposes of this Act—

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

(b) development by the council of a county in its functional area, exclusive of any borough or urban district;

(c) development by the corporation of a county or other borough in that borough;

(d) development by the council of an urban district in that district;

(e) development consisting of the carrying out by the corporation of a county or other borough or the council of a county or an urban district of any works required for the construction of a new road or the maintenance or improvement of a road;

(f) development carried out on behalf of or jointly or in partnership with, a local authority that is a planning authority;

(7) The doing of anything that is required under this Act to be done by resolution shall be a reserved function

pursuant to a contract entered into by the local authority concerned, whether in its capacity as a planning authority or in any other capacity;

PL1 S 4

(g) development consisting of the carrying out by any local authority or statutory undertaker of any works for the purpose of inspecting, repairing, renewing, altering, or removing any sewers, mains, pipes, cables, overhead wires or other apparatus, including the excavation of any street or other land for that purpose;

(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;

(i) development consisting of the thinning, felling and replanting of trees, forests and woodlands, the construction, maintenance and improvement of non-public roads, sewers, forests and woodlands and works ancillary to that development, not including the replacement of broadleaf high forest by conifer species;

(j) development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such;

(k) development consisting of the use of land for the purposes of a casual trading area (within the meaning of the Casual Trading Act, 1995);

(l) development consisting of the carrying out of any of the works referred to in the Land Reclamation Act, 1948, not being works comprised in the fencing or enclosure of land which has been opened to or used by the public within the ten years preceding the date on which the works are commenced;

(2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described);

PL1 S 4

(b) Regulations under paragraph (a) may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

(c) Regulations under this subsection may, in particular and without prejudice to the generality of paragraph (a), provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.

(3) A reference in this Act to exempted development shall be construed as a reference to development which is—

(a) any of the developments specified in subsection (1), or

(b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.

(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.

(5) Before making regulations under this section, the Minister shall consult with any other State authority where he or she or that other State authority considers that any such regulation relates to the functions of that State authority.

Declaration and referral on development and exempted development

5.—(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.

(3) (a) Where a declaration is issued under this section, any person issued with a declaration under subsection (2)(c) 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.

(b) Without prejudice to subsection (2), in the event that no declaration is issued by the planning authority, any person who made a request under subsection (1) may, on payment to the Board of such fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued under subsection (2).

(4) Notwithstanding subsection (1), a planning authority may, on payment to the Board of such fee as may be prescribed, refer any question as to what, in any particular case, is or is not development or is or is not exempted development to be decided by the Board.

(5) The details of any declaration issued by a planning authority or of a decision by the Board on a referral under this section shall be entered in the register.

(6) (a) The Board shall keep a record of any decision made by it on a referral under this section and the main reasons and considerations on which its decision is based and shall make it available for purchase and inspection.

(b) The Board may charge a specified fee, not exceeding the cost of making the copy, for the purchase of a copy of the record referred to in paragraph (a).

(c) The Board shall, from time to time and at least once a year, forward to each planning authority a copy of the record referred to in paragraph (a).

(d) A copy of the said record shall, at the request of a member of a planning authority, be given to that member by the manager of the planning authority concerned.

(7) A planning authority, before making a declaration under this section, shall consider the record forwarded to it in accordance with subsection (6)(c).

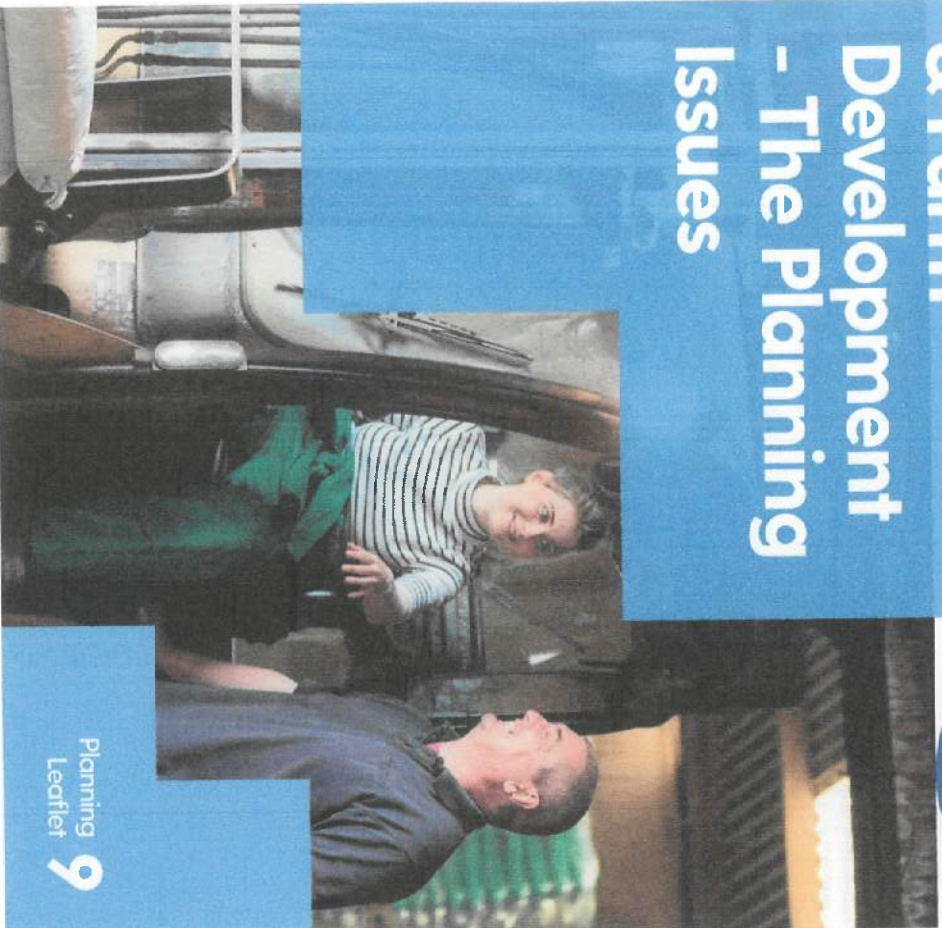
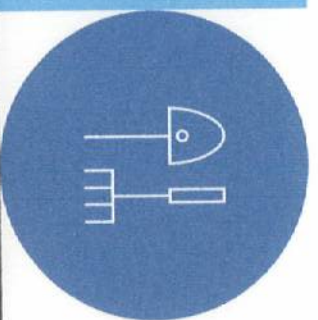
6.—A planning authority and the Board shall each have all such powers of examination, investigation and survey as may be necessary for the performance of their functions in relation to this Act or to any other Act. Power of examination, investigation and survey.

7.—(1) A planning authority shall keep a register for the purposes of this Act in respect of all land within its functional area, and shall make all such entries and corrections therein as may be appropriate in accordance with subsection (2), and the other provisions of this Act and the regulations made under this Act. Planning register.

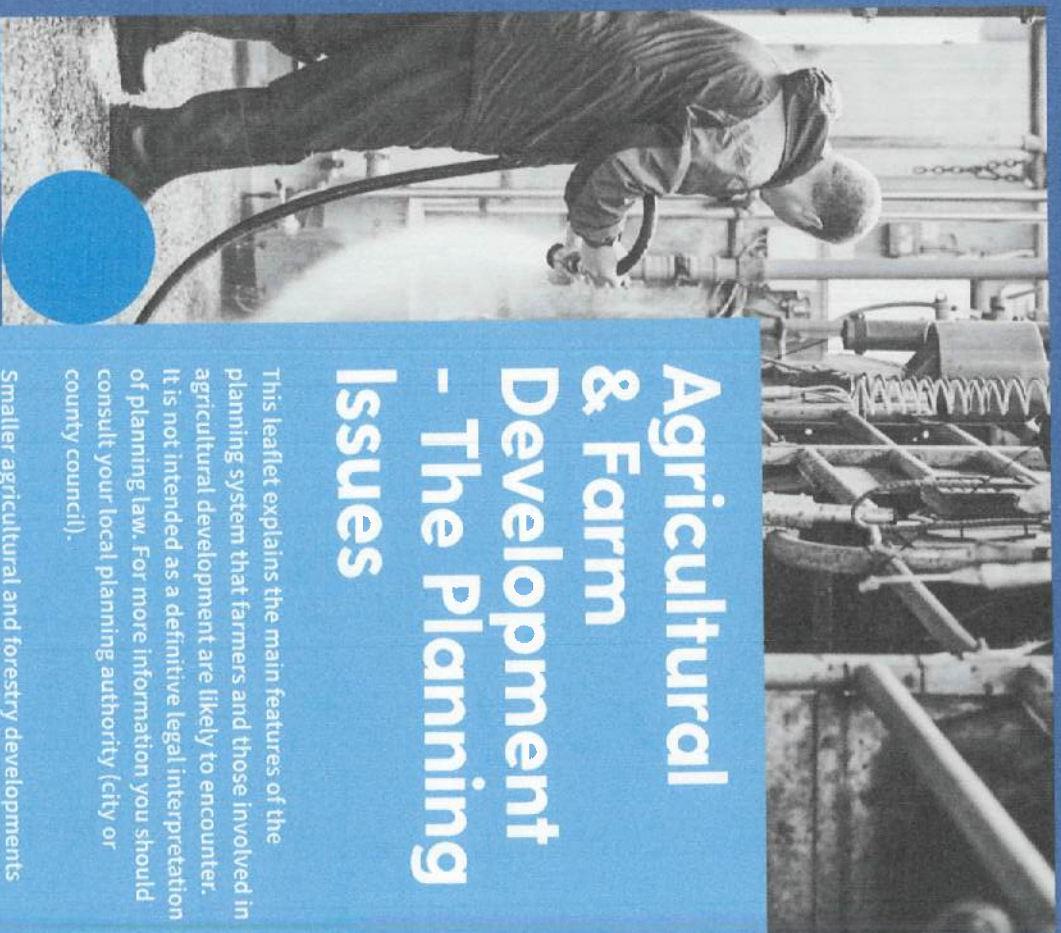
(2) A planning authority shall enter in the register—

(a) particulars of any application made to it under this Act for permission for development, for retention of development or for outline permission for development (including the name and address of the applicant, the date of receipt of the application and brief particulars of

Agricultural & Farm Development - The Planning Issues



Planning
Leaflet
9



Agricultural & Farm Development - The Planning Issues

This leaflet explains the main features of the planning system that farmers and those involved in agricultural development are likely to encounter. It is not intended as a definitive legal interpretation of planning law. For more information you should consult your local planning authority (city or county council).

Smaller agricultural and forestry developments usually do not require planning permission. However, larger developments do require planning permission. In addition, any development which requires an Environmental Impact Assessment (EIA), needs planning permission. Please refer to leaflet Planning Leaflet 11 – “Environmental Assessments and Planning in Ireland” for more information regarding EIA.



1. Do I need planning permission?

Planning permission is generally required for developing any land or property unless there is a specific exemption in planning law. This type of development is known as exempted development. The term development includes carrying out any work (i.e. building, demolition or alteration) on, in, over or under land or buildings and includes making material (i.e. significant) change of use of a structure or land.

2. What is exempted development?

Exempted development is development for which planning permission is not required under planning law. **Much agricultural development, especially uses of land for agricultural purposes, is exempt.** Some agricultural buildings and structures are exempt from planning permission, provided they meet certain conditions. The main exemptions for developing buildings are set out in Question 3 below.

You can obtain a declaration of exempted development from your planning authority which confirms that a development does not require planning permission. This is called a Section 5 Declaration.

3. What are the main planning permission exemptions for agricultural buildings?

Development of the following types of agricultural buildings and structures, is generally exempt from planning permission, subject to compliance with specific conditions:

Type 1: A roofed structure housing cattle, sheep, goats, donkeys, horses, deer or rabbits, provided that its floor area does not exceed 200 square metres and that the total floor area of all Type 1 structures within the farmyard complex (or within 100 metres of the complex) does not exceed 300 square metres floor space.

Type 2: A roofed structure housing pigs, mink or poultry provided that its floor area does not exceed 75 square metres and that the total floor area of all Type 2 structures within the farmyard complex (or within 100 metres of the complex) does not exceed 100 square metres. In addition, boundary/fencing of a mink holding must be escape-proof.

Type 3: Roofless cubicles, open loose yards, self-feed silo or silage areas, feeding aprons, assembly yards, milking parlours and silage making/storage structures, provided that the floor area of any new structures does not exceed 200 square metres and that the total floor area of all Type 3 structures within the farmyard complex (or within 100 metres of the complex) does not exceed 300 square metres.

Type 4: A store, barn, shed, glasshouse etc., not exceeding 300 square metres in floor area and not used for housing animals or storing effluent, provided that the total floor area of all Type 4 structures within the farmyard complex (or within 100 metres of the complex) does not exceed 900 square metres.

Type 5: An unroofed fenced area for exercising or training horses or ponies with an all-weather surface, provided the structure is not more than two metres high. The structure must not be used for staging public events and the entrance should not be directly off a public road.

Type 6: A roofed structure for housing greyhounds, provided that the floor space does not exceed 50 square metres and that the total floor area of all Type 6 structures within the same complex (or within 100 metres of the complex) does not exceed 75 square metres.

Type 7: A roofless hard-surfaced yard or enclosed area (in connection with keeping greyhounds), provided that the total floor area does not exceed 100 square metres

and that the total floor area of all Type 7 structures within the same complex (or within 100 metres of the complex) does not exceed 150 square metres.

These exemption types are also subject to the following conditions:

- they may only be built in areas outside the jurisdiction of any city council and be used for agricultural purposes only (all 7 types);
- the distance between any structure and a public road must be at least 10 metres (all 7 types);
- the distance from houses or other residential buildings, schools, hospitals, churches or public assembly buildings must be at least 100 metres, unless the owners and occupiers give their written consent to lesser distances (all 7 types);



- the height above ground level cannot exceed eight metres within 100 metres of a public road (all types except types 5 and 7);
- no unpainted metal sheeting shall be used for roofing or on the external finish (except for types 5, 6 and 7);
- structures of types 1, 2, 3, 6 and 7 must have adequate slurry/effluent storage facilities for their size, use and location, and those for types 1, 2 and 3 must additionally be in line with Department of Agriculture, Food and the Marine requirements, and all slurry/effluent storage facilities must be adequate to avoid water pollution; *and*
- they must be used for agricultural purposes only (types 1 to 5) or for the breeding and keeping of greyhounds, as appropriate (types 6 and 7).

The exemptions do not apply if the development may interfere with sites, features etc. listed for preservation in the development plan or draft plan. In addition, as with all categories of exempted development, exempted status does not apply in the following situations:

- where the development is contrary to a planning condition attached to a planning permission relating to the site;
- where the development involves creating a new access or significantly widening an existing access onto a public road that is more than four metres wide or where it would create a traffic hazard;
- where the development would interfere with the character of a landscape, view or prospect designated of special amenity value in the development plan;

- where the development would impact on archaeological sites or National Monuments;
- developments in any areas where a special amenity order relates;

- where an appropriate assessment is required because the development would likely have a significant effect on the integrity of a European site [Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)];
- where the development would be likely to have an adverse impact on a Natural Heritage Area (NHA). For example An Bord Pleanála has in the past determined that fencing in such areas is not exempted development;
- where the development would obstruct a public right of way;
- where the development includes or comprises fencing or enclosure of land open to or used by the public during the previous 10 years; *or*
- where the development is subject to environmental impact assessment.

4. Are there other agricultural activities that may be exempted development?

Certain other types of activities are considered exempted development.

These include:

- initial afforestation;
- works, in areas other than where a special amenity area order relates, consisting of:

- field drainage for agriculture, other than drainage and/or reclamation of wetlands;
- land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding; *and*

- works consisting of the removal for the purposes of agriculture of field boundaries including stone walls, clay banks or wire and post fences;
- development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species;

- development consisting of the carrying out of any of the works referred to in the Land Reclamation Act, 1949. This excludes fencing or enclosing land which has been open to or used by the public within ten years preceding the date which the works commenced, or land reclamation or reclamation of estuarine marsh land and of callows referred to in the 1949 Act above; *and*

- development consisting of the carrying out of drainage and/or reclamation of wetlands, subject to the conditions that (i) the affected area must not exceed 0.1 hectares and (ii) where similar development has been carried out within a farm holding the total area of such development proposed in conjunction with any previous development shall not exceed 0.1 hectare.

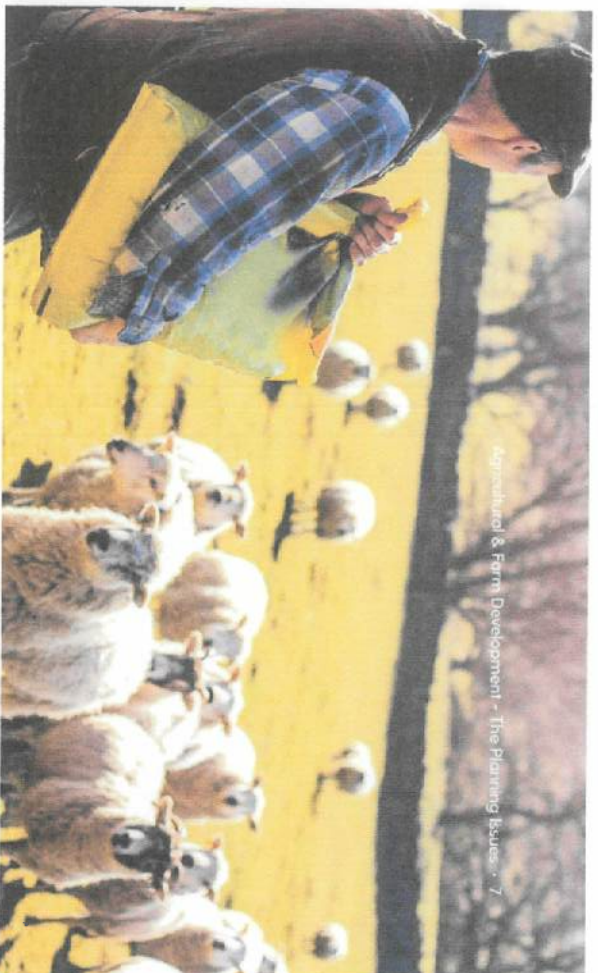
In addition, two other legislative and regulatory requirements apply to agricultural and forestry activities.

The first operates in parallel to the planning process and relates to licences issued by the Forest Service, Department of Agriculture, Food and the Marine (DAFM) for:

- tree felling;
- afforestation, a licence is required for all afforestation projects where the area involved is greater than 0.10 hectares (approximately 0.25 acres); *and*
- forest road construction – a licence is required to construct a forest road. Where a forest road construction project includes the provision of access to a public road, the DAFM is the authority for forest road entrances from a public road based on Section 8 of the Planning and Development (Amendment) Act, 2018 which commenced in 2020, referred to as the single consent system. This replaced the previous system where forest roads were within the DAFM licence system and entrances to public roads were within the local authority planning system.

More information on this process can be found at: <https://www.gov.ie/en/publication/e305a-public-consultation-on-licence-applications-for-felling-afforestation-forest-roads-and-aerial-fertilisation/>

The second process that operates in parallel to the planning process is the consent process from the EIA Section, Nitrates,



Biodiversity and Engineering Division, Department of Agriculture, Food and the Marine (DAFM) regarding:

- restructuring by removal of field boundaries,
- re-contouring (within farm-holding),
- commencing to use uncultivated land or semi-natural areas for intensive agriculture,
- or
- draining lands (other than wetlands) used for agriculture.

You can obtain further details about this by contacting the DAFM.

5. What about Environmental Impact Assessment (EIA)?

The agricultural and forestry developments listed below must always undergo EIA as part of the planning process. An application for planning permission, including an Environmental Impact Assessment Report

(EIAR), must be submitted in these cases.

An EIA may be required for projects "where the listed thresholds are not exceeded and/or if the planning authority considers that there are likely to be significant effects on the environment". These are referred to as sub-threshold projects.

For clarity, an EIAR is required for:

- development consisting of the carrying out of drainage and/or where wetlands are being reclaimed, where more than two hectares of wetlands would be affected;
- replacing broadleaf high forest by conifer species, where the area involved would be greater than 10 hectares;
- deforestation for the purpose of conversion to another type of land use, where the area to be deforested would be greater than 10 hectares of natural woodlands or 70 hectares of conifer forest;

7. How much will a planning application cost?

Planning application fees vary depending on the nature and size of the proposed development. Full details are in the explanatory notes which accompany the planning application form. If you do not pay the correct fee with your application, the application will be invalidated and will be returned to you. Fees are subject to revision. Details of fees are available from your local planning authority.

8. What documents do I need to submit with a planning application?

Planning Leaflet 4 - "A Guide to Making a Planning Application", explains the documents you need to submit with all planning applications. The documents needed for typical agricultural developments include:

- schedules of proposed and existing buildings with floor areas, numbers of animals currently housed and to be housed;
- schedules of proposed and existing effluent storage and spreading methods, capacities, arrangements for ensuring effluent is not diluted with clean water and for ensuring effluent does not cause pollution;
- where appropriate, signed agreement(s) with other landowners for spreading effluent on their lands; and
- calculations for slurry, soiled water and effluent capacities and requirements.

6. Where can I get further information on EIA?

Planning Leaflet 11 - "Environmental Assessments and Planning in Ireland", explains the EIA process and describes what an Environmental Impact Assessment Report is. Your local planning authority will explain which development proposals require an EIA. You are strongly advised to contact your planning authority for pre-application consultations if you feel your proposal may need an Environmental Impact Assessment Report (EIAR).

- installations for intensive poultry rearing which would have more than 40,000 places for poultry;
- installations for intensive pig rearing which would have more than 2,000 places for production pigs, more than 400 places for sows in a breeding unit or more than 200 places for sows in an integrated unit;
- seawater fish breeding installations with an output which would exceed 100 tonnes per annum;
- all fish breeding installations consisting of cage rearing in lakes;
- all fish breeding installations upstream of drinking water intakes;
- other freshwater fish breeding installations which would exceed 1 million smolts and with less than one cubic metre per second per one million smolts low flow diluting water; and
- reclaiming land from the sea, where the reclaimed area would be greater than 10 hectares.

You may contact the planning authority before making an application for advice on aspects of the location, design and finishes of agricultural structures.

This is particularly relevant in areas of high amenity and/or environmental sensitivity.

These can be checked in the development plan which is available at the office of the planning authority, on its website or at www.myplan.ie. All planning authorities offer pre-application consultation services, the details are available from their offices or their websites.

9. What should the location map or plan in an agricultural planning application show?

In addition to the details indicated in Planning Leaflet 4 - "A Guide to Making a Planning Application", the following information will normally be needed:

- the applicant's farm and the farmyard development, watercourses, drains, houses, schools, churches or public assembly buildings in the vicinity;
- other land in the vicinity owned by the applicant or landowner marked or coloured separately; and



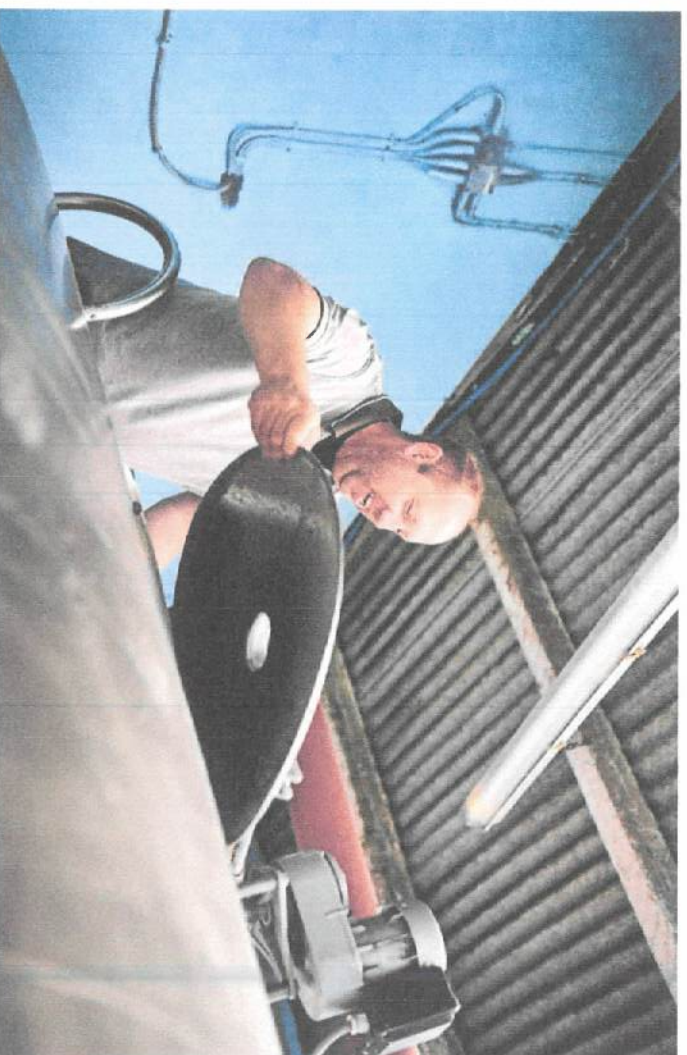
- any lands, both on and off the applicant's farm, available for effluent spreading, together with any watercourses, drains, dwelling houses, schools, churches or public assembly buildings within 100 metres of such land.

10. What should the site or layout plan in an agricultural planning application show?

In addition to the detail indicated in Planning Leaflet 4 - "A Guide to Making a Planning Application", the following information will normally be needed:

- proposed farm building and structures;
- details of yard gates and walls;
- existing and proposed effluent storage tanks marked or coloured separately;
- effluent and soiled water drainage layouts, roof water and other clean water collection and disposal systems. All underground water channels, drains and pipes should be shown;
- any adjoining or nearby watercourses, wells, water supplies etc.;
- any existing and proposed septic tanks;
- location of roads and site boundaries and distances to these; and
- details of clean and soiled water drainage on the site layout plans.

- details of existing farm buildings and structures, surfaced and unsurfaced yards, directions of falls, soiled yards, silage pits etc.;



11.11. Where can I get advice on effluent storage and disposal?

- 1. A key issue in agricultural developments is effective and safe storage of effluents.
- 2. Effluent storage facilities should be designed in accordance with Statutory Instrument 55, the EU Good Agricultural Practice for Protected Waters (Amendment) Regulations, 2018.

More general advice on farm development is also available from your local Teagasc office and the Farm Advisory Service (FAS) of the Department of Agriculture, Food and the Marine.

12. Do I need any other licences or permits?

In addition to planning permission, you may need further authorisations before starting your agricultural development such as:

- **Integrated Pollution Control (IPC):** Certain intensive pig and poultry rearing activities (i.e. those above specified thresholds) require an integrated pollution control (IPC) licence from the Environmental Protection Agency (EPA). Details are available from the EPA's Licensing Division, telephone 053 9160600 or email intro@epa.ie.

• **Water Services Connection:** You will need permission from Irish Water if you are making a connection to a public or group water main or sewer. If you are installing a septic tank in an unserved area, you will need to submit trial hole and percolation test results.

• **Discharge Licences:** Any discharges to watercourses must be licenced under a discharge licence issued by the local authority under the Local Government (Water Pollution) Act, 2007.

- **Building Regulations:** Generally, all new buildings and extensions must also comply with building regulations, which set out basic design and construction requirements. However, some agricultural structures are exempt. Detached single storey agricultural buildings under 300 square metres are generally exempt from the building regulations. A two-storey agricultural building is not exempt and may require a fire safety certificate and a commencement notice. Further information is available from your local authority.

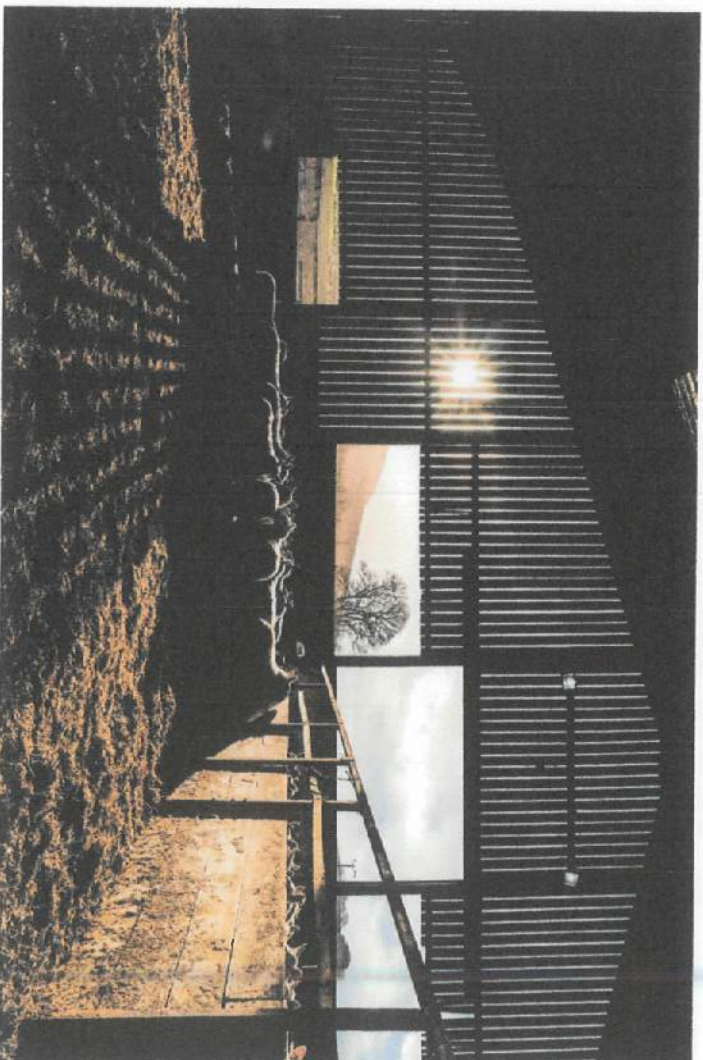
13. There are power lines in the vicinity of the proposed development, do additional requirements apply?

You should contact your local ESB office if the proposed development is near electricity lines or where construction is happening within reach of your farm's electricity supply.

14. Where can I get further information?

You must contact your local ESB Networks office, giving two months' notice of any construction activity within six metres of overhead lines. Underground service providers (e.g. gas, electricity, water, sewerage) should be consulted to avoid damage to pipes or ducting etc. before commencement of work. Information leaflets on avoidance of electrical hazards when digging and safe construction with electricity should be viewed for more information. As with farm machinery, construction work can bring you into contact with live electricity and lead to severe injury or death. A booklet entitled "Farm Safety With Electricity" is available from www.esbnetworks.ie.

Further information is available from your local planning authority. The law governing the planning system is set out in the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended). You can purchase these from the Government Publications Sales Office, telephone (01) 6476834 or at publications@opw.ie or you can download them from the Department of Housing, Local Government and Heritage's website www.gov.ie/housing. Legislation is also available to view and download from: www.irishstatutebook.ie.



Office of the Planning Regulator

Fourth Floor (West Wing)

Park House

Grangegorman

191-193A North Circular Road

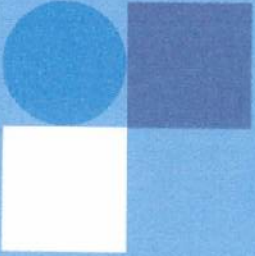
Dublin 7

D07 EWV4

opr.ie

info@opr.ie

01 854 6700



Disclaimer: Issued January 2021. While every care has been taken in the preparation of this planning information leaflet, the Office of the Planning Regulator assumes no responsibility for and gives no guarantees concerning the accuracy, completeness or up to date nature of the information provided and accepts no liability arising from any errors or omissions, whether in whole or in part, or for any errors, omissions and comments by email to info@opr.ie

Transparency International Ireland launches 'Integrity Index' of Irish Local Authorities

16 May 2018

Download the [full report](#) here

- Galway City Council the highest ranking of 31 local authorities. Galway County Council considered to be the worst performing on integrity index.
- Data shows strong relationship between number of women in senior management and better systems and practices to prevent corruption.
- All local authorities, as well as central government, need to do much more to prevent corruption.

Dublin, 16 May 2018

Transparency International (TI) Ireland today launches the first [National Integrity Index](#) on Local Authorities, which ranks Ireland's 31 local authorities based on three criteria: Transparency, Accountability and Ethics. The index and report are the result of eight months of research during 2017 and early 2018 into the systems and practices for promoting integrity in Ireland's 31 city and/or county councils.

'Local authorities are responsible for public spending worth over €4 billion every year and despite the findings of the Mahon Tribunal and the 2015 RTÉ Investigates exposé on standards in public office, it seems that still too little effort is being made to prevent and address corruption in our local authorities', said Kelly McCarthy, TI Ireland Advocacy and Research Coordinator.

Galway City Council tops the National Integrity Index on Local Authorities for 2018, receiving 21 points out of 30, two more than the councils that came in second place. Galway City Council had the joint-highest score in the Accountability category and the highest score in the Ethics category. Fingal County Council and South Dublin County Council came joint-second in the rankings, with 19 points. Dublin City Council and Monaghan County Council came joint-fourth in the rankings, with 18 points. Dublin City Council and South Dublin County Council had the joint-highest score in the Transparency category, while Monaghan County Council had the joint-highest score in the Accountability category.

Rank	Council	Overall Score (% out of 30 points)	Total points (out of 30)
1	Galway City Council	70%	21
2	Fingal County Council	63%	19
2	South Dublin County Council	63%	19
4	Dublin City Council	60%	18
4	Monaghan County Council	60%	18
6	Dún Laoghaire–Rathdown County Council	57%	17
6	Laois County Council	57%	17
6	Meath County Council	57%	17
9	Kerry County Council	53%	16
9	Kildare County Council	53%	16
11	Clare County Council	50%	15
11	Cork City Council	50%	15

11	Limerick City and County Council	50%	15
11	Roscommon County Council	50%	15
11	Tipperary County Council	50%	15
16	Leitrim County Council	47%	14
17	Donegal County Council	43%	13
17	Longford County Council	43%	13
19	Cavan County Council	40%	12
19	Louth County Council	40%	12
19	Mayo County Council	40%	12
19	Sligo County Council	40%	12
19	Wicklow County Council	40%	12
24	Cork County Council	37%	11
24	Kilkenny County Council	37%	11
24	Westmeath County Council	37%	11

27	Carlow County Council	33%	10
28	Offaly County Council	30%	9
28	Waterford City and County Council	30%	9
30	Wexford County Council	23%	7
31	Galway County Council	17%	5

‘It is important to note that even the highest ranking local authorities still have room for improvement, and all local authorities need to take steps to ensure effective systems and practices to prevent corruption. They need to publish much more information on their websites, such as councillors’ annual ethics declarations, procurement information and key information on development plans and planning decisions. The Department of Housing, Planning and Local Government also has a key role in preventing and addressing corruption in local authorities, while the Oireachtas needs to pass the long-delayed Public Sector Standards Bill’, said John Devitt, Chief Executive of TI Ireland.

‘Monaghan County Council, which came in joint-fourth in the rankings, is among the smaller of the 31 councils but does better than 26 of them. It shows that you don’t need massive resources to be more transparent and accountable’, Mr Devitt added. ‘The aim of the study was to highlight how local authorities were promoting transparency, accountability and ethics,’ he continued. ‘We looked at what the councils should do, based on best practice, as well as what they are legally required to do. A number of local authorities lost points for not posting information on their websites, even though they’re not legally required to do so. This includes annual declarations of interests and statements outlining the donations that councillors receive’.

In addition to the rankings included in the ‘National Integrity Index – Local Authorities’ report, the study also found that there is a significant relationship between the proportion of women in senior management positions in local authorities, and local authorities’ scores. In

other words, the local authorities with higher proportions of women in senior management roles tended to have better systems and practices to promote integrity and prevent corruption.

Analysis also showed a significant relationship between local authorities' scores and budget deficits, with the local authorities with poorer systems and practices to promote integrity being much more likely to have larger budget deficits. Statistical analysis shows that each fewer point in the index is linked to an average of about one million euro more in a local authority's deficit.

'This study and its corresponding index are by no means a ranking of corruption in local authorities. Instead, the aim of this report and index is to assess the local authorities' systems and practices aimed at promoting integrity and preventing corruption. Similarly, though the index is split into categories of transparency, accountability and ethics, with scores for each of those categories, those scores do not indicate which authority is the most or least transparent, accountable or ethical, but instead which has the best systems and practices in place to ensure transparency, accountability and ethics', said Ms McCarthy.

'It is also important to note that there is no evidence to suggest that the majority of local authorities' members and staff are anything other than honest and hard-working people – regardless of where their authority is placed on the index. The purpose of this index is not to measure the individual integrity of people working in local authorities but the systems in which they operate. These systems should be designed to help prevent future conflicts of interest and corruption. In doing so, they can build public trust and confidence among the communities they are duty-bound to serve', Ms McCarthy added.

This study picks up from the findings of TI Ireland's [2009](#) and [2012 National Integrity Systems](#) (NIS) studies, which looked at how well-prepared Irish laws and institutions, including local authorities, were to stop corruption in all its forms. The NIS studies looked at various institutions, such as public sector agencies, law enforcement agencies, political parties, civil society, local government, and the business sector. This index and study on local authorities marks the first in a series of National Integrity Indices that TI Ireland plans to carry out.

The issues highlighted in TI Ireland's research reflected concerns from members of the public and workers who have contacted TI Ireland's [Speak Up Helpline](#) since 2011. TI Ireland's [2015 Speak Up Report](#) noted that local government was the most complained about sector. The three most commonly reported concerns related to a lack of transparency in decision making, misuse of public position, and conflicts of interest. The [2017 Speak Up report](#) reported that local government was the fifth-most complained about sector.

The majority of information for this study was found on council websites, while phone calls to local authorities and freedom of information requests were also used. An email was also sent to each of the local authorities with questions, four of which were used for the index, and councils were given over six weeks to respond. Nineteen councils answered the questions posed in that email. Individual scorecards were also shared with each local authority, on which they were given two weeks to comment.

This study was published with the financial support of the Community Foundation for Ireland. Future editions of the study will also be funded by the Community Foundation.

Notes for Editors

There are many more findings related to the enforcement of ethics declarations, planning, protected disclosures, revolving door practices, lobbying, internal audit units, all of which can be found in the report ([available here](#)), as well as recommendations for the local authorities, the Department of Housing, Planning and Local Government, the Local Government Management Agency, legislators and the Standards in Public Office Commission.

- TI Ireland researchers found a critical lack of transparency in the pre-planning consultation process across the local authorities. The Planning and Development Act 2000 requires the councils to keep a record in writing of any pre-planning consultations, and to include them in the planning application files. TI Ireland found that only six local authorities were consistently including pre-planning consultation reports in the online planning files for applications in which such consultations took place.
- The data analysis did not show a significant relationship between the sizes (whether looking at the number of full-time equivalent employees, income or annual expenditures) of the councils and the councils' performance, thus undermining any argument that only those councils with more staff and resources can meet the various integrity-related standards.
- When asking each local authority to share any investigation procedures they have in relation to contraventions of Part 15 of the Local Government Act (the Ethical Framework for Local Government), one local authority responded just that the 'Problem hasn't arisen to date', so it did not require any such investigation procedures. However, the RTÉ Investigates programme of 2015 that exposed possible violations of the LGA included a detailed segment on an elected member from the same council.
- TI Ireland submitted freedom of information requests to each of the 31 local authorities as part of the research. Only 22 provided decisions on the requests within the 20-working day deadline required by the Freedom of Information Act 2014 and two – Galway County Council and Sligo County Council – never provided decisions.

- Cavan, Donegal, Laois, Waterford, Wexford and Wicklow are the six local authorities that have no women in senior management positions, according to the information posted on their websites.

Monaghan County Council is one of the smallest local authorities, in terms of the number of full-time equivalent staff and annual expenditures, as of 31 December 2016. This data is from the National Oversight and Audit Commission's 'Performance Indicators in Local Authorities 2016', available at <http://noac.ie/wp-content/uploads/2018/01/2016-PI-Report.pdf>.

TI Ireland operates the Speak Up helpline, which offers information, referral advice and advocacy support to people looking to report wrongdoing, or to witnesses and victims of corruption or other wrongdoing. Workers who wish to make a protected disclosure (commonly known as whistleblowing) may be offered an appointment with the Transparency Legal Advice Centre (TLAC).

TI Ireland also runs the Integrity at Work (IAW) programme, which is a multi-stakeholder, not-for-profit initiative for organisations in the public, private and non-profit sectors. Through training, best practice exchange, online resources and specialist advice and guidance, IAW promotes supportive environments for anyone reporting concerns of wrongdoing.

For the full table of results, see the [interactive table](#)