# Comhairle Contae Chorcaí Cork County Council

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



Mr. Ciarán Cronin, Crocon Engineers Ltd., 4, Main Street, Bantry, Co. Cork.

6th April, 2023.

Our Ref: D/10/23

RE/ Declaration request on exempted development under Section 5 of the Planning & Development Act, 2000 (as amended).

Dear Sir,

On the basis of the information and plans submitted by you on 20th March, 2023 on behalf of Mr. Kevin Power, the Planning Authority declares that the construction of agricultural shed at Kilnahera, Drimoleague, Co. Cork constitutes development as defined under Section 2(1) of the Planning & Development Act, 2000 (as amended) and *is not exempted development*.

The proposed development is not linked to any agricultural activity and therefore could not be considered within the scope of Class 9, Part 3 of Schedule 2 of the Planning & Development Regulations, 2001 (as amended).

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

Receipt No. WCP11375, in respect of €80.00 fee, is issued herewith.

Yours faithfully,

KEVIN O'REGAN

SENIOR EXECUTIVE OFFICER



#### Ref D/10/23

#### Exempted Development under Section 5 of the Planning and Development Act 2000

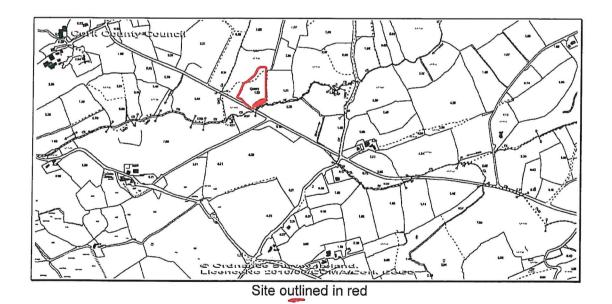
Re: Erection of agricultural building at Kilnahera, Drimoleague, Co. Cork

#### **Proposal**

The applicant seeks a Declaration of Exemption for an agricultural shed stated to be intended for use as a storage shed for dry storage associated with keeping of horses. The site was formerly used as a quarry and is marked as 'Quarry' on the Planning Enquiry maps. The site subsequently re-vegetated naturally according to aerial photographs on the Planning Enquiry System..

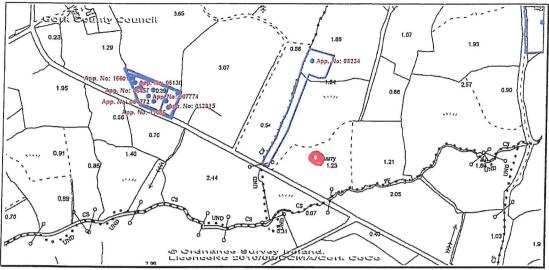
The development has a stated floor area of 297sqm and has a maximum ridge height of 7.2m. The shed is sited more than 10m from the public road and there are no 3<sup>rd</sup> party dwellings located within 100m of the proposed shed. The site is located within a rural area at Kilnahera, Drimoleague. Killaveenoge windfarm is located c. 1km east of the site and a dwelling is under construction to the west of the site.

The applicant is seeking a Declaration of Exemption under Class 9 of the Planning and Development Regulations 2001, as amended.



#### **Planning History**

The is no record of planning permission pertaining to the site.



Site marked in red

#### Relevant Statutory Provisions

The most relevant statutory provisions are as follows:

Section 2 of the Planning and Development Act, 2000 provides that: "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.

Section 3(1) of the Planning and Development Act, 2000 provides that: "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4 of the Planning and Development Act 2000 sets out what shall be exempted developments for the purposes of the Act. Section 4(2) makes provision for ministerial regulations to set out further exemptions. The 2001 Planning Regulations as amended derive from this section and designates further works as being exempted development for the purposes of the act.

Article 6(1) of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) makes provision for certain classes of development to be exempt from the requirement to obtain planning permission.

Specifically, Class 9 of Part 3 of Schedule 2 of these Regulations states:

#### CLASS 9

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

- 1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry but excluding the housing of animals or the storing of effluent.
- 2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.
- 3. No such structure shall be situated within 10 metres of any public road.
- 4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
- 5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
- 6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

Article 9 of the Planning and Development Regulations, 2001 (S.I. No. 600 of 2001) makes provisions for the removal of the above exemptions in particular circumstances.

#### Cork County Development Plan 2022

The subject site is located in a rural, coastal area identified as a Tourism and Rural Diversification Area in the Cork County Development Plan 2022.

The site is not located within the indicative flood risk zone for fluvial or pluvial flooding as mapped on the Flood Risk maps. The site is located within the indicative Screening Zone for Roaringwater Bay and Islands SAC (Site Code 00101) however having regard to the nature of the development and its distance from the SAC likely significant impacts on the SAC can be ruled out.

#### Internal Reports

No internal reports sought.

#### **Assessment**

I inspected the site on 31/03/2023. The site appears to have been recently cleared of vegetation and possibly raised through importation of material.





The proposed development constitutes development in accordance with the definition of development as set out in Section 3(1) of the Planning and Development Act, 2000, as amended. The question therefore arises as to whether the proposed development is exempt development.

The proposal for exemption is assessed in accordance with the provisions of Article 6(1) and Article 9(1)(a)(vi) of the Planning and Development Regulations, 2001 (as amended) which are quoted above.

Section 4 of the Planning and Development Act 2000, as amended, and Article 6 of the Planning and Development Regulations 2001, as amended, makes provision for certain classes of development to be exempt from the requirement to obtain planning permission. Of particular relevance in the assessment of the current proposal is Class 9 of Part 3 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 which allows for the provision of an agricultural shed as exempted development subject to the limitations set down in Column 2.

The structure is not located within 100m of any third party dwellings whose consent would be required for the structure to be exempt and the building complies with the conditions in terms of height, size and distance from the public road.

The key matter, therefore, pertains to the use of the shed. Class 9 applies to structures used solely for the purpose of agriculture or forestry but excluding the housing of animals or storing of effluent.

A cover letter included with the application states that the shed is intended for dry storage associated with keeping of horses. No further details have been provided to enable the Planning Authority to determine whether the shed will be used for agricultural purposes. The site itself has no other agricultural buildings or stables and the applicant should be requested to clarify:

- i) How many horses are within his ownership and details of same, including details of a herd number or other documentary evidence
- ii) Where the animals graze and stabled
- iii) Maps of the landholding in the applicant's ownership associated with the keeping of horses
- iv) Details of precise dry goods, including amounts, to be stored in the shed

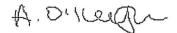
It is also not clear whether ground levels have been raised through the importation of material and the applicant should be requested to clarify this matter.

In order to determine that the proposed development falls within Class 9 of the Regulations I recommend that Further Information is sought.

#### Conclusion

Please request the following Further Information:

- i) How many horses are within the applicant's ownership and submit details of same, including details of a herd number or other documentary evidence for each animal.
- ii) Submit details of where the animals normally graze and are stabled.
- iii) Submit maps of any landholding within the applicant's ownership associated with the keeping of horses.
- iv) Submit details of the precise nature of the dry goods, including amounts, to be stored in the shed.
- v) Please clarify whether ground levels have been raised on the site since the site was cleared of vegetation that previously existed.



Annie O'Keeffe Area Planner 31/03/2023

#### Report of the Senior Executive Planner

I have examined the application documents and read the Area Planner's report on file recommending deferral for further information.

Class 9 of Schedule 2, Part 3, exempted development relating to 'agricultural structures', allows works of the provision of any store, barn, shed or glasshouse or other structure, for agriculture or forestry, not exceeding 300 sqm subject to conditions and limitations.

Having inspected the site (see photographs below) and having observed the lack of evidence of any agricultural activity on the site / landholding and the absence of any information on file to demonstrate agricultural activity, I am satisfied that the proposed shed cannot be considered an agricultural structure.

Therefore, I do not consider the proposed development falls within the scope of Class 9 of Schedule 2, Part 3 of the Regulations and is therefore not exempted development.

#### Recommendation

- (a) The proposed shed constitutes development as defined under Section 2 (1) of the Planning and Development Act 2000 (as amended) by virtue of the carrying out of works,
- (b) The proposed development is not linked to any agricultural activity and therefore could not be considered within the scope of Class 9, Parts 3 of Schedule 2 to the Planning and Development Regulations, 2001 (as amended).

The construction of an agricultural shed at Kilnahera West, Drimoleague is development which is not exempted development.

T Twomey SEP 04/04/2023









# Chartered Engineers | Building Surveyors | Planning Consultants | Conservation Consultants |

Unit 18, Airport East Business & Technology Park Co. Cork T12 AV62 4 Main St., Bantry, Co. Cork P75 PW64 | 027 50123 | www.crocon.ie

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

CroCon Ref 23021

**Date:** 15 March 2023

RE: Section 5 Declaration of Exemption Application at Kilnahera West, Drimoleague, Co. Cork.

Dear Sir/Madam,

I enclose a Section 5 Declaration of Exemption Application Form, concerning the proposed placement of a storage shed on behalf of Kevin Power at Kilnahera West, Drimoleague, Co. Cork.

It is intended to use the shed for dry storage associated with keeping of horses (not for use as stables).

The planning fee of €80 has been paid – Receipt No. WCP 11375.

I trust all is in order, please do not hesitate to contact me should you have any queries.

Yours sincerely,

Ciarán Cronin BEng CEng MIEI

## ument & Drawing Register.

C. Con Engineers Ltd.

Unit 18, Airport East Bus. & Technology Park, Co. Cork T: 021 4310709 4 Main St., Bantry, Co. Cork. T: 027 50123 W: www.crocon.ie E: info@crocon.ie



Job Number:

Project Title:

23021

Power, Drimoleague

								9			ode		123									
							Drawing Number:	Paper Size	Drawing Scale;	Purpose Code:	Accept, Code:	Current Revision:	15 Mar 2023									
Drawings:	Project	Orign.	Zo	Level	Info	Role	Number	Pag	Dra	₽ S	ÅĞ.	2 %	15	$\downarrow$	-	-	-	$\sqcup$	4	$\perp$	$\perp$	L
Record Place Map	23021	- CRO	- X	- XXX	- DR	- SE	- 00001	A3	1/10560	P03	S	0	4	1	1							
Rural Place Map	23021	- CRO	- X			- SE	- 00002 -	A3	1/2500	P03	S	0	4				1					
Existing Site Layout	23021						- 01000	A3	1/500	P03	S	0	4					П				
Proposed Site Layout	23021	- CRO	- X	- XXX	- DR	- SE	- 01001	A3	1/500	P03	S	0	4	1					1			
Proposed Ground Floor Plan	23021	- CRO			- - DR	- - SE	- 02000	A3	1/100	P03	S	0	4									
Proposed Elevations Proposed Elevations	23021	- CRO	- X	- XXX	- DR	- SE	- 02001	A3	1/100	P03	S	0	4				1					
Proposed Section	23021	- CRO	- X	- XXX - XXX	- DR	- SE	- 02002 - 02003	A3	1/100	P03	S		4									
A control of the cont		-	-	-	-	-	-	113	17100	103	3	١,	1							İ		1
		_	-	-	-	-	-							1							П	
		-	-	-	-	-	-											1			П	
		-	-	=	-	=	-						1									
		-	- :	_	-	-	-												1	1	П	
		-		-	-	-	-					- 1										
		-		-	-	-	-													1		
		-			-	-	-						1									
		-	-		-	-	-					- 1									1	
		-			-	-	-															
		-			•	-	-								1							
		-			-	-	- 4														П	
					-	-	-						1								П	
Documents:														ł								
Cover Letter	22221	- CD C			an-		. 4					+	$\dagger$	+			7	+		$\vdash$	H	$\dashv$
Application Form	23021	- CRO	- CO -	-		- 00100 -	)					1	1									
Application Form - Contact Details			-			-						1										
			-	-		-						-	1									
			-	-		-																
	:-		-	-		-																
				-		-																
	-			-																		
		-		-		•						i.				D					1	
	-			-										1		- 04	G	A				
	-	-	,	-	-	•						1				PL	0	1	8			
	-			-	-	•8								1			100	1				
	-	-		-	-														g: 42		۸.,	
ssued to: -Mail/Electronic: E; Post: P. Hand: H.										_		$\perp$					2			20		
													0	6			0	1/2	1			Z
ork County Council												P	282	4	100		1		1	3		
														W	o.	9	811	,		-		
															-6	SE, S	The state of the s	1	-			
																	1/0	260	0			
																		10	W.	,		
																			1	U.		
																				$  \  $		
												1	1	1 1	- 1	- 1	- 1	1	1	ıl	- 1	
																	-					



# CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST	(Please tick $\sqrt{\ }$ )
4 No. Copies of Application Form:	X
1 No. Copy of Contact Details:	X
4 No. Copies 6" O.S. Maps:	X
4 No. Copies 25" O.S. Maps:	X
4 No. Copies of Site Layout Plan:	X
4 No. Copies Scaled Drawings of Development:	X
€80 Application Fee:	X

#### **FOR OFFICE USE ONLY**

Receipt No.	
Cash/Cheque/	
Credit Card	
Date	
Declaration	
Ref. No.	DATE STAMP HE

You should make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed by the public. Please do not submit any information that you do not want 3<sup>rd</sup> parties to view.

In the case of a Declaration of Exemption for Land Reclamation, the following additional information is required:

- A copy of the details submitted to the Council's Environment Department (Inniscarra) for a Waste Licence Permit
- Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural purposes)
- · Details of existing and proposed levels
- Details of fill material and duration of fill.

#### DATA PROTECTION

The planning process is an open and public one. In that context, all applications for Declarations of Exemption are made available for public inspection.

Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data is a key priority for the Council and your data will be processed in line with our Privacy policy which is available at <a href="http://www.corkcoco.ie/Privacy-Policy">http://www.corkcoco.ie/Privacy-Policy</a> or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to <a href="mailto:dpo@corkcoco.ie">dpo@corkcoco.ie</a> or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

Kevin Power	
2. POSTAL ADDRESS OF LAND OR S'EXEMPTION IS SOUGHT:	TRUCTURE FOR WHICH DECLARATION OF
Kilnahera West, Drimoleague, Co. Cork	
	ILS: of Exemption is sought will be assessed under the Section 5 Declaration of Exemption roposed development - construction of a shed of
floor area 297 m2 ?	
	PLANNIN.
	ANNING.
	NONTOUSE SHOWS TO SEPT.
	TOWNOUSE SOLVE SOL
	CARLON COLOR
	· CORK

1 NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A – CONTACT DETAILS)

224	With the second second second second second		According to the second		- reconstruct contract	
4	A PPI	TCA	TION	DETA	IT C.	,

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square metres  $(m^2)$ 

- d - b d - 007 0				
ed shed - 297 m2				
Yes No If yes, please provide floor areas (m²) and previous planning reference(s) where applicable				
use				
No X  ease state relevant reference number(s				
ner X B. Other				
TURAL CONSERVATION AREA				
thin the curtilage of a Protected				
evelopment Act 2000 been requested  No				
NOW POR ZOMAD COM				
ACA), as designated in the County				
e				

#### 8. DATA PROTECTION DECLARATION:

In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <a href="http://www.corkcoco.ie/privacy-statement-cork-county-council">http://www.corkcoco.ie/privacy-statement-cork-county-council</a> or in hardcopy from any Council office; and to having your information processed for the following purposes:

### Processing of your Declaration of Exemption application by the Planning Authority

 $oxed{X}$  I give permission for my personal information to be processed for the purpose stated above

Signed (By Applicant Only)	Yesun ower
Date	08.03.23

## GDPR Special Categories of data / Sensitive Personal data - Explicit Consent

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, **explicit consent** to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:

- Race
- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Concerning a natural person's sex life
- Sexual orientation

In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <a href="https://www.corkcoco.ie/privacy-statement-cork-county-council">https://www.corkcoco.ie/privacy-statement-cork-county-council</a> or in hardcopy from any Council office; and to having your information processed for the following purposes:

Sensitive personal data being submitted in support of Declaration of Exemption Application

I give permission for my sensitive personal data submitted to the Planning Authority to be processed for the purpose stated above.

Signed	Kesin	X2.100	
Date	4	08.03.23	

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: <a href="mailto:planninginfo@corkcoco.ie">planninginfo@corkcoco.ie</a> or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: <a href="mailto:westcorkplanninginfo@corkcoco.ie">westcorkplanninginfo@corkcoco.ie</a> However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.

#### ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- The Planning Authority may request other person(s), other than the applicant; to submit information on the question which has arisen and on which the Declaration of Exemption is sought.
- Any person issued with a Declaration of Exemption may on payment to An Bord Pleanála refer a Declaration of
  Exemption for review by the Board within 4 weeks of the date of the issuing of the Declaration of Exemption
  decision.
- In the event that no Declaration of Exemption is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a Declaration of Exemption was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations, 2001, as amended.

9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the <u>Planning and Development Acts 2000</u>, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	Ciarin Conin
Date	15/03/2023



