

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

Tír na nÓg, Aughrim-Kilmore Community Preschool,

Reference Number: DED 565

Application Received: 24th May, 2023.

Location: Dangan Community Centre, Dangan, Kilmore, Co. Roscommon.

WHEREAS a question has arisen as to whether proposed works consisting of an all outdoor preschool with the use of a poly tunnel for shelter and planting at Dangan Community Centre, Dangan, Kilmore, 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) Classes 3, 15, 20C and 33 of Part 1, Article 6, Schedule 2 of the Planning and Development Regulations 2001 (as amended).
- (d) Class 9 of Part 3, Article 6, Schedule 2 of the Planning and Development Regulations 2001 (as amended)
- (e) 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)
- (f) The planning history of the site.

AND WHEREAS Roscommon County Council has concluded that:

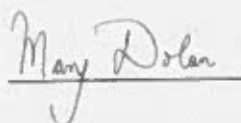
- a) The proposed works constitute development as defined in the Planning & Development Act 2000 (as amended) and associated Regulations.
- b) The proposed development is not exempted development as defined in the Planning & Development Act 2000 (as amended) and associated Regulations.

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 **an all outdoor preschool with the use of a poly tunnel for shelter and planting at Dangan Community Centre, Dangan, Kilmore, 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 said Council



**Administrative Officer,
Planning.**

Date: 20th June, 2023

**Planner's Report on application under Section 5 of the
Planning and Development Act 2000 (as amended)**

Reference Number: DED 565

Name and Address of Applicant: Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development for an all outdoor preschool with the use of a poly tunnel for shelter and planting at Dangan Community Centre, Dangan, Kilmore, Co. Roscommon N41 T6K1.

Applicant: Tír na nÓg Aughrim-Kilmore Community Preschool.

Date: 16th June 2023

WHEREAS a question has arisen as to whether an all outdoor preschool with the use of a poly tunnel for shelter and planting at Dangan Community Centre, Dangan, Kilmore, Co. 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) Class 3,15,20 (c),33 of Part 1 Article 6 Schedule 2 of the Planning and Development Regulations, 2001, (as amended)
- (d) Class 9 of Part 3 Article 6 Schedule 2 of the Planning and Development Regulations, 2001, (as amended)
- (e) 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)
- (f) The planning history of the site

Site Location & Development Description

The subject site is located to the eastern side of the Dangan Community Centre, which is accessed via the L1030 local road. The proposed development consists of an all outdoor preschool with the use of a poly tunnel for shelter and planting. No details have been submitted with the application in relation to the size or design of the poly tunnel. From inspecting the subject site, it was noted that the poly tunnel already exists and is equipped with children's furniture, play items, shelving etc.

Planning History
Planning Applications

16661/86- The erection of a community centre and construction of septic tank- granted planning permission subject to 9 conditions.

Declaration of Exempted Development

DED 475 The question raised in the Section 5 of the Planning and Development Act 2000 (as amended) is or is not development and is or is not exempted development for "pre-school activities" - A declaration issued stating the works were development and were exempted development.

Note: This Declaration of Exempted Development issued on the basis that "pre-school activities" were undertaken within the community centre building and represented the same use class as the centre itself. The DED did not relate to any operations taking place outside of the community centre.

Assessment

In accordance with the Planning and Development Act 2000, (as amended) 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....". It is considered that an all outdoor preschool with the use of a poly tunnel for shelter and planting constitutes development, as defined in Section 3 of the said Act.

There are no exemptions specifically set out in the Planning & Development Regulations 2001 (as amended) for an all outdoor preschool. Consideration has also been given to all potential classes of the exempted development, as set out below. Based on all of those, the Planning Authority consider an outdoor preschool not to be exempted development.

Description of Development	Conditions and Limitations
<i>Temporary structures and uses</i> CLASS 15 Occasional use for social or recreational purposes of any school, hall, club, art gallery, museum, library, reading room, gymnasium or any structure normally used for public worship or religious instruction.	

Description of Development	Conditions and Limitations
CLASS 20C	1. The use shall be discontinued after a period not exceeding 2 years.

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	2. Such structure shall comply with the Department of Education and Science Primary and Post Primary Technical Guidance Documents for the time being in force.
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Description of Development	Conditions and Limitations
<p><i>Development for amenity or recreational purposes</i></p> <p>CLASS 33</p> <p>Development consisting of the laying out and use of land—</p> <p>(a) as a park, private open space or ornamental garden,</p> <p>(b) as a roadside shrine, or</p> <p>(c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.</p>	<p>The area of any such shrine shall not exceed 2 square metres, the height shall not exceed 2 metres above the centre of the road opposite the structure and it shall not be illuminated.</p>

The case of an outdoor pre-school has been assessed under Class 15, 20 (c), 33 of Part 1 Article 6 Schedule 2 of the Planning and Development Regulations, 2001, (as amended).

Class 15 of Part 1 of Article 6 of the regulations relates to the occasional use of a structure for social or recreational use. The outdoor pre-school is educational use and is located outside of the community centre, therefore it cannot be considered to be exempted development under this class.

Class 20 (c) of Part 1 of Article 6 of the regulations relates to the '*temporary use as a school of any structure formerly used as a school 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*', It is evident that this is a new outdoor pre-school facility and is not within an existing structure. It is also proposed on an ongoing basis and is not temporary.

The final class assessed for this declaration was Class 33 of Part 1 of Article 6 of the regulations, relating to development for amenity or recreational purposes. The outdoor pre-school is not a park, private open space, ornamental garden, roadside shrine or an athletics or sports. Therefore, this class is also discounted, as the proposal set out in the question above does meet the specifics set out in Class 33. It is considered the proposal to be development and not to be exempted development

In terms of a poly tunnel there are no exemptions set out in Planning & Development Regulations 2001 (as amended). However, the matter of the poly tunnel has been considered in the context Class 3 and Class 9 of Part 3 of Article 6 - *Exempted Development General* of the Regulations.

PART 1 - Article 6 - Exempted Development – General

Description of Development	Conditions and Limitations
<p>CLASS 3</p> <p>The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</p>	<ol style="list-style-type: none"> 1. No such structure shall be constructed, erected or placed forward of the front wall of a house. 2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres. 3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres. 4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house. 5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres. 6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such

PART 3 - Article 6 - Exempted Development – Rural

Description of Development	Conditions and Limitations
<p>CLASS 9</p>	<ol style="list-style-type: none"> 1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry,

<p>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.</p>	<p>but excluding the housing of animals or the storing of effluent.</p> <p>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.</p> <p>3. No such structure shall be situated within 10 metres of any public road.</p> <p>4. No such structure within 100 metres of any public road shall exceed 8 metres in height.</p> <p>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.</p> <p>6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</p>
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Under the exemptions set out in the Planning and Development Regulations 2001 (as amended), there are two exemptions relating to poly tunnels/ greenhouses Class 3 of Part 1 of Article 6 and Class 9 of Part 3 of Article 6. Therefore, a poly tunnel located on the site of the community centre cannot be considered under the exemptions set out in the Planning and Development Regulations 2001 (as amended) and therefore it is considered that the proposal is development and is not exempted development.

Environmental Considerations:

The development is not of a class set out in Part 2 Schedule 5 of the Planning and Development Regulations 2001 as (amended) and would not give rise to a requirement for EIA.

The site is located 12.4km away from Annaghmore Lough (Roscommon) SAC. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to and distance from any sensitive location, there is no real likelihood of significant effects on European sites arising from the proposed development.

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 exemptions set out in 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 an all outdoor preschool with the use of a poly tunnel for shelter and planting at Dangan Community Centre, Dangan, Kilmore, Co. 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 –

- (g) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, (as amended)
- (h) Articles 6 and 9 of the Planning and Development Regulations, 2001, (as amended)
- (i) Class 3,15,20 (c),33 of Part 1 Article 6 Schedule 2 of the Planning and Development Regulations, 2001, (as amended)
- (j) Class 9 of Part 3 Article 6 Schedule 2 of the Planning and Development Regulations, 2001, (as amended)
- (k) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000, (as amended)
- (l) The planning history of the site

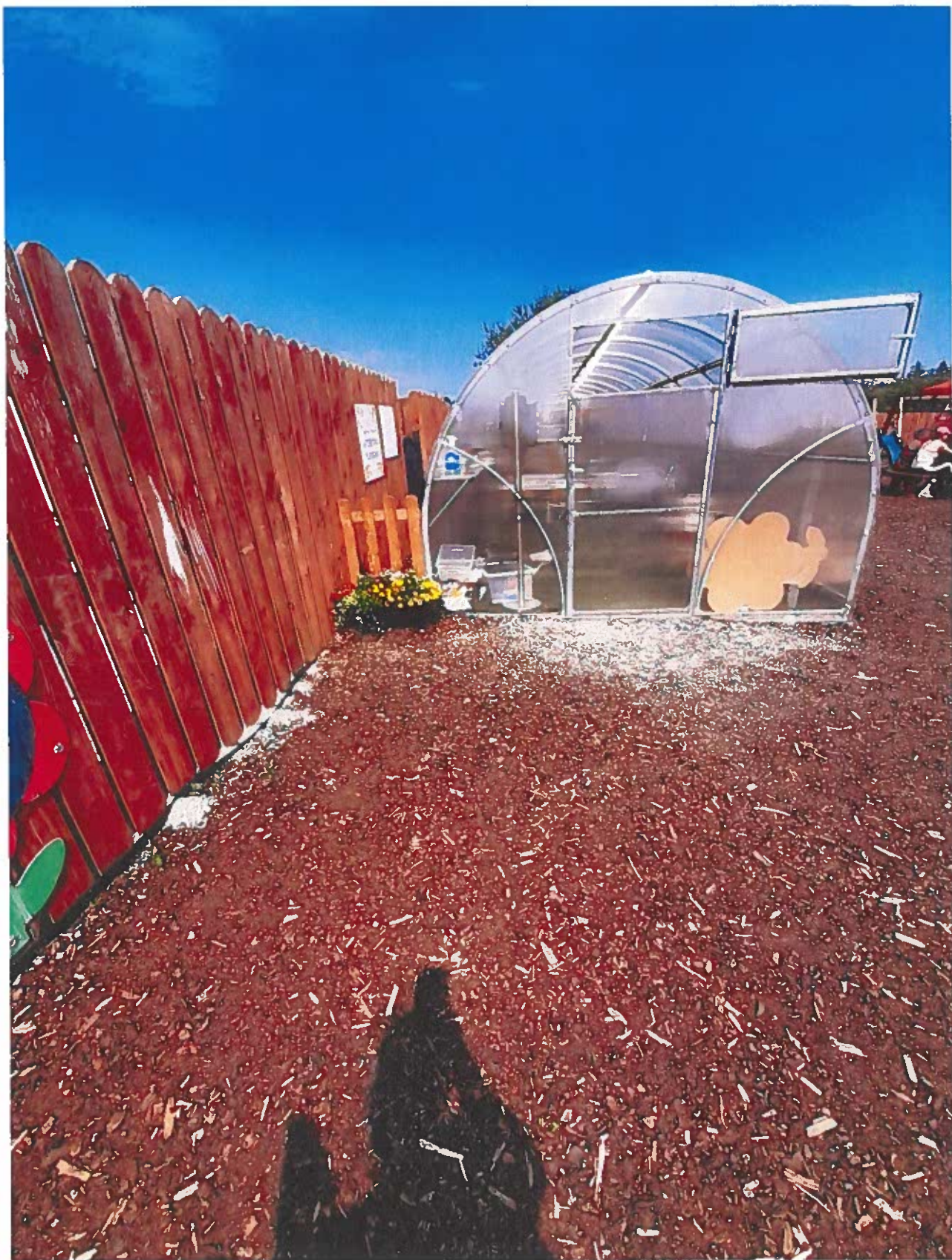
AND WHEREAS I have concluded that

- a) The works are development.
- b) The construction of an all outdoor preschool with the use of a poly tunnel for shelter and planting is not exempted development.

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

Signed: 
Assistant Planner

Date: 16th June 2023





Mary Dolan

From: Customer Service
Sent: Wednesday 31 May 2023 14:26
To: Mary Dolan
Subject: FW: URGENT: Planning Reference: DED565
Attachments: Letter to Rosc CoCo May2023.docx

From: Jackie Ffrench-McGill [REDACTED]
Sent: Wednesday 31 May 2023 14:06
To: [REDACTED] Customer Service <customerservice@roscommoncoco.ie>
Subject: URGENT: Planning Reference: DED565

Dear Mary Dolan,

Further to our planning reference: DED565, please find attached letter with additional information for your reference.

We are under a strict deadline from Tusla of the 1st June 2023. Failure to meet this deadline will result in our service not being inspected by Tusla in time for opening at the end of August.

Your urgency is greatly appreciated at this time.

Please don't hesitate to contact me if you require any further information.

Warm regards,

Jackie Ffrench-McGill

[REDACTED]

Please note that I may be sending this email outside your working hours and I do not expect a response or action outside your own working hours





Tír na nÓg

Aughrim-Kilmore Community Preschool

Dangan Community Centre, Dangan, Kilmore, Co. Roscommon N41T6K1.

31st May 2023

Roscommon County Council

Mary Dolan

Planning Department

Planning Reference: DED 565



Dear Mrs. Dolan

Further to our application for Declaration, regarding Exempted Development, planning reference DED656.

From September 2023 we plan on operating an all outdoor part-time service for 38 weeks of the year from 9.30am to 1.45pm Monday to Friday.

The all outdoor service will meet the developmental needs of the children to rest, play, learn, move and plant. The polytunnel will be providing an additional space to learn and develop in relation to the Early Years Curriculum.

However, the children will have access to an appropriate indoor structure which Tusla have been informed off. This indoor structure will provide adequate shelter and shade for the children when learning and development is not accessible in our all outdoor environment.

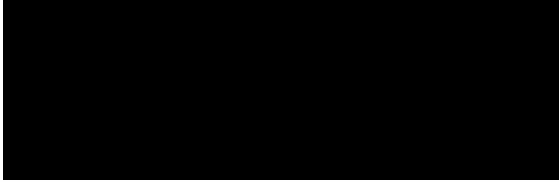
The dimensions for the polytunnel are 3m wide x 12m long and height of 2.1m



Comhairle Contae
Ros Comáin
Roscommon
County Council



Tír na nÓg,



Date: 30th May, 2023.

Planning Reference: DED 565

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.
Development: An all outdoor preschool with the use of a poly tunnel for shelter and planting at Dangan Community Centre, Dangan, Kilmore, Co. Roscommon N41 T6K1.

A Chara,

I wish to acknowledge receipt of your application received on the 24th May, 2023, 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. L01/0/222947 dated 29th May, 2023 refers, receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 565**.
This should be quoted in all correspondence and telephone queries.

Mise le meas,

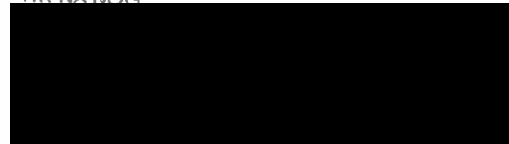
Administrative Officer,
Planning.

Roscommon County Council
Aras an Chontae
Roscommon
09066 37100

29/05/2023 12:05:02

Receipt No . L01/0/222947

TIR NANOIG



PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED 565	

Total :	80.00 EUR
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Tendered	
Cheque	80.00
500054	

Change :	0.00
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Issued By : Bernadine Duignan
From : Central Cash Office



Tír na nÓg

Aughrim-Kilmore Community Preschool

Dangan Community Centre, Dangan, Kilmore, Co. Roscommon N41T6K1.

23rd May 2023

To Whom It May Concern

Please find attached our application for declaration regarding exempted development.

We are operating a part-time service (preschool) in Dangan Community Centre since September 2021. We are now in a position to expand our service and add on an additional all outdoor part-time service in our playground. Similar to other outdoor services in the county, we erected a polytunnel to our playground so as to offer shelter to the children, as well as for planting.

Tusla are urgently requesting written confirmation from our local authority, Roscommon County Council that the polytunnel does not require fire and planning. We would be extremely grateful if you would kindly review and process our application as a matter of urgency.

Thanking you in advance and please don't hesitate to contact me if you require any further information.

Warm regards,

Jackie Ffrench-McGill

Manager



Comhairle Contae
Ros Comáin
Roscommon
County Council



Áras an Chontae,
Roscommon,
Co. Roscommon.

Phone: (090) 6637100

Email: planning@roscommoncoco.ie

Roscommon County Council

Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development

Name:	Tír na nÓg Aughrim-Kilmore Community Preschool, C/O Aughrim-Kilmore Development Association
Address:	[REDACTED]
Name & Address of Agent:	N/A
Nature of Proposed Works	An all outdoor preschool with the use of a play tunnel for shelter and planting.
Location (Townland & O.S No.)	Dangan – [REDACTED]
Floor Area	N/A
Height above ground level	N/A
Total area of private open space remaining after completion of this development	N/A
Roofing Material (Slates, Tiles, other) (Specify)	N/A
Proposed external walling (plaster, stonework, brick or other finish, giving colour)	N/A
Is proposed works located at front/rear/side of existing house.	N/A

Roscommon County Council



**Application for a Declaration under Section 5 of the
Planning & Development Act 2000 (as amended), regarding Exempted Development**

Has an application been made previously for this site	N/A
If yes give ref. number (include full details of existing extension, if any)	N/A
Existing use of land or structure	N/A
Proposed use of land or structure	N/A
Distance of proposed building line from edge of roadway	N/A
Does the proposed development involve the provision of a piped water supply	No
Does the proposed development involve the provision of sanitary facilities	No

Signature:

A handwritten signature in black ink, appearing to read 'D. J. Regan', written over a faint circular stamp.

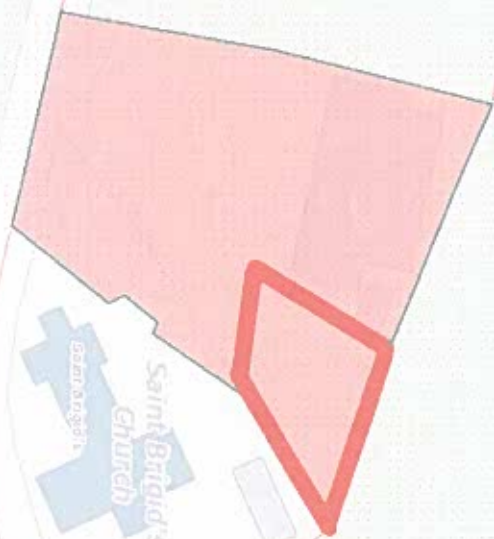
Date: 23rd May 2023

Note: This application must be accompanied by:-

- (a) €80 fee
- (b) Site Location map to a scale of 1:2500 clearly identifying the location
- (c) Site Layout plan to the scale of 1:500 indicating exact location of proposed development
- (d) Details specification of development proposed

ROSCOMMON COUNTY COUNCIL
24 MAY 2023
PLANNING SECTION

Saint Brigid's
National School



Saint Brigid's
Church

Site Plans

