

My Ref.s5_Murphy
Your Ref. N/A

03/07/2026

Planning Department,
Galway City Council,
City Hall,
College Road.

RML PLANNING

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Re. Section 5 Referral

Dear Planning,

On behalf of Nicola Murphy, No.97 Fr. Griffin Road, Salthill, Galway, please find this referral pursuant to section 5 of the Planning and Development Act 2000, as amended (PDA), for a declaration on the following question. The appropriate fee has been paid. Please address correspondence to agent.

1 Question

Whether a solar array in a field located to the rear of Numbers 91, 93, 95 and 97 Fr. Griffin Road, is or is not development or is or is not exempted development?

Section 5 of the PDA remains in force pending the commencement of the relevant section of the Planning and Development Act 2024. Pursuant to section 5, the following information is provided to enable the authority to make its decision on the matter.

2 Details

The development has been carried out by Maureen Gannon, 93 Fr. Griffin Road, Salthill Galway. The works were carried out by Ohk Energy.

The referrer is Nicola Murphy, No. 97 Fr. Griffin Road, Salthill, Galway.

3 Location and site context

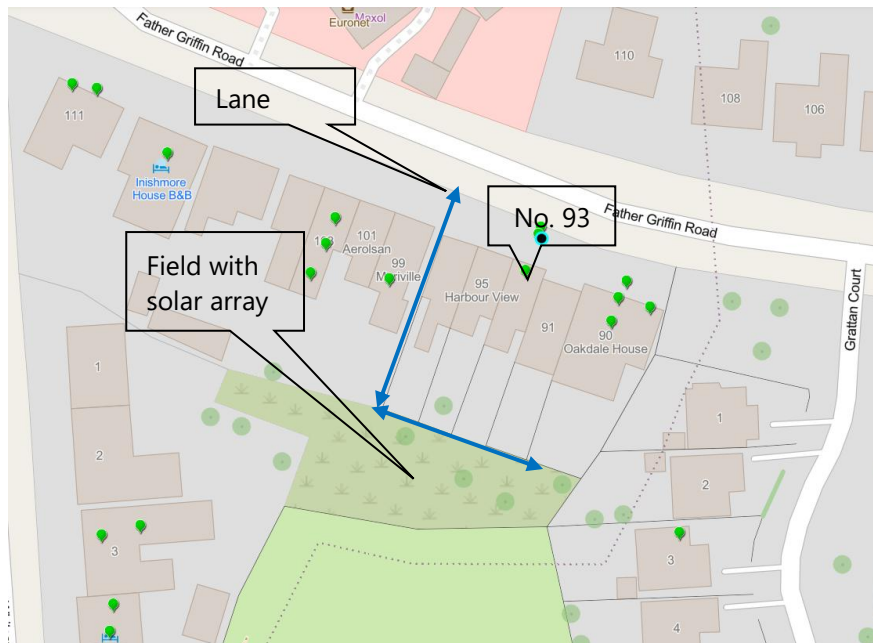
No. 93 is a part of a terrace fronting Fr. Griffin Road, Salthill. Between No. 97 and No. 99 Fr. Griffin Road is a lane and right of way, which connects Fr. Griffin Road to the rear of the houses on the terrace. The lane provides access to the rear of No. 91, No. 93 (the developer), No. 95 and No. 97 and to a field which is under the control of No. 93, situated south of the lane. The field is adjacent to a larger open space to the north of Whitestrand Avenue historically linked to St. Joseph's Industrial school and has recently been used as parking associated with No. 93. The field was fenced and two vehicular gates have been erected into the field. In June 2026, a solar array has been placed on the field by the owner of No.93 Fr. Griffin Road.

As the referrer is not the developer, the precise details of the scale of the development are not within the referrer's knowledge. Please see appendix A which provides photographs of the solar

array which is directly behind No. 95, the neighbour to the west of the developer and behind No. 97. The array is not located to the rear of the developer.

A concrete slab had been laid to facilitate the development, and cables have been laid in the laneway which is a right of way. Several houses along Fr. Griffin Road have suffered from basement level flooding.

Fig. 1 Site context. Source: Galway City Council applications map- annotated.



3.1 Relevant planning history- No.93 Fr. Griffin Road

PA Ref. 18320- permission granted for rear extension. The field the subject of this section 5 referral was not included as within a red or blue line of that application.

PA Ref. 20326 – permission refused for retention of works to front and parking area. The field the subject of this section 5 referral was not included as within a red or blue line of that application

Enforcement complaint- works to front of house.

4 Relevant zoning

The field is zoned residential in the Galway City Development Plan 2023-2029. The land to the south is zoned open space.

5 Relevant legislation to the question

Section 2 (1) of the PDA states “development” has the meaning assigned to it by Section 3 and repair or renewal.

Section 3(1) of the PDA states – “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.**”

Section 4(1) of the PDA provides a list of exempted developments for the purposes of the Act and includes any Regulations made under the Act.

The Planning and Development Regulations, 2001 as amended, (PDR), provides in Article 6 (1) that 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.

Part 1 of Schedule 2 of the PDR sets out exempted development to which Art 6(1) refers and this only applies as “Development **within the curtilage of a house.**”

Fig. 2 Extract from PDR 2001 as amended and highlighted.

SCHEDULE 2	
Article 6	
PART 1	
Exempted Development - General	
Column 1 Description of Development	Column 2 Conditions and Limitations
Development within the curtilage of a house	

In Column 1 of Class 2 (c) an exemption is provided “*The placing or erection on a roof of a house, **or within the curtilage of a house**, or on a roof of any ancillary buildings within the curtilage of a house (this class does not include apartments) of a solar photo-voltaic and/or a solar thermal collector installation*” subject to several conditions/restrictions in Column 2.

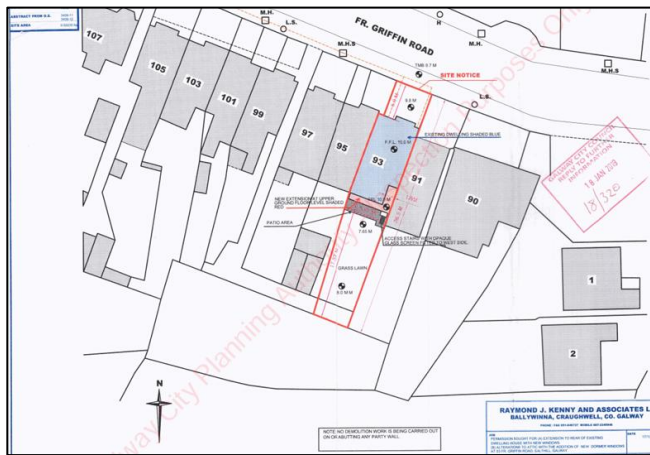
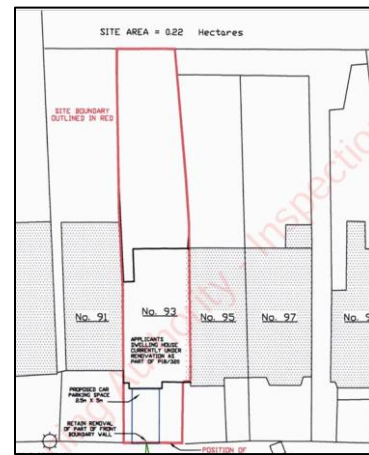
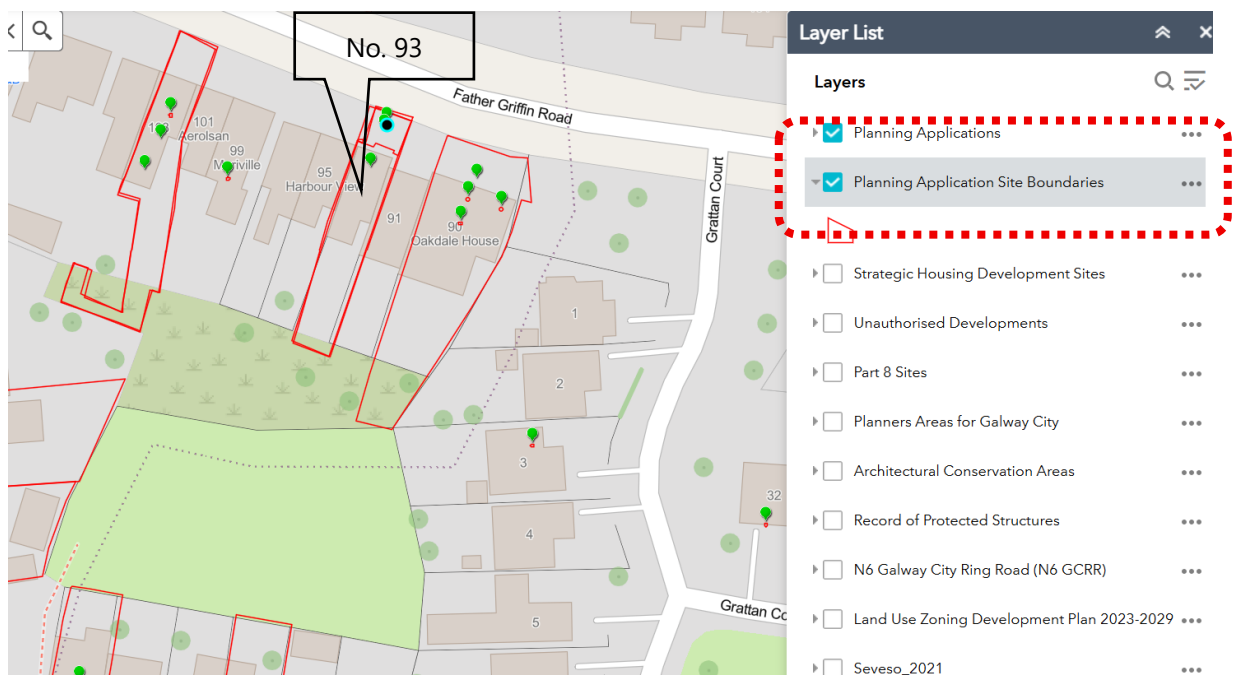
It is contended in the following section, that the restrictions/conditions in Column 2 (which are familiar to the PA) are not relevant and therefore they are not repeated.

5.1 Application of relevant legislation to question

Section 3 of the PDA defines “development” and the provision of a solar array, hard standing and underground gables on land previously used as a field, clearly falls within the definition of works on, in, over and under land and is also a material change in the use of land. Accordingly, the solar array is development.

In relation to the second part of the question, Class 2 (c) in the PDR only applies to development “**within the curtilage of a house**”. The development as constructed is not within the curtilage of house but in a field to the rear, and therefore the exemption does not apply ab initio, and the conditions in column 2 are irrelevant. The field was not ever part of the curtilage of the house having been acquired much later than the development of the terrace. While the field has come under the control of No. 93, it is physically separated from that house by the lane/access to other properties and did not and does not form part of the curtilage of No.93.

The fact the field is not part of the curtilage or even acknowledged as under the control of the applicant is further demonstrated in the two relevant planning applications, as the field was not included as within the control of the applicant as required in the PDR within either a red or blue line. Had the applicant in No. 93 considered the field as part of the site, it would have been included in the planning applications. The PA have noted the site boundaries on the planning application website as excluding the field - see Fig. 5.

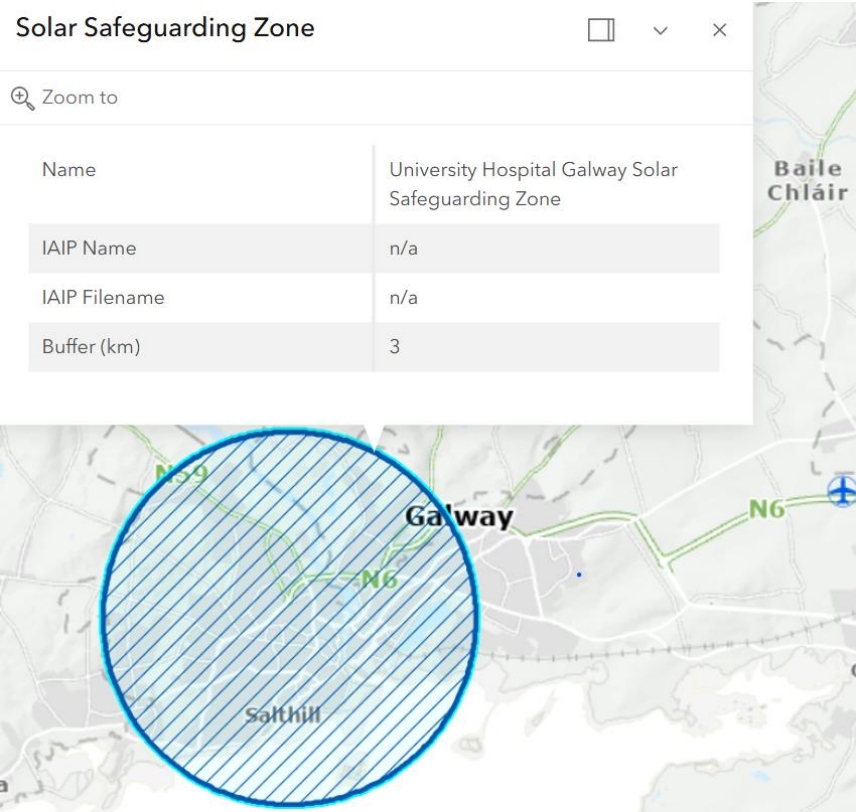
Fig. 3 Extract of PA Ref. 18320**Fig. 4** Extract of PA Ref. 20326**Fig. 5** Extract from planning application boundaries- Galway City Council website- annotated

6 Solar Safeguarding zones

The Planning and Development (Solar Safeguarding Zone) Regulations 2022 set out Solar Safeguarding Zones (SSZs) which are areas around airports, aerodromes or helipads in which there is a potential for glint or glare from solar panels to impact aviation safety. A square metre limit on rooftop solar panels applies within these zones to all classes of development **other than houses**.

For information, Map 38 of the Planning and Development (Solar Safeguarding Zone) Regulations 2022 includes the subject site, as located within 3 km of University College Galway.

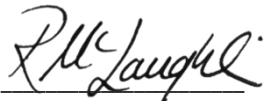
Fig. 6 Solar Safeguarding Zone, Source MyPlan.ie



7 Conclusion

The PA is invited to make a declaration on the question, that the solar array is development and is not exempted development.

Yours sincerely,


Rosemarie McLaughlin
BA,MRUP,BL,MIPI

Appendix 1

Photographs
Site Location

Appendix 1

Plate 1 Solar array viewed from rear of No.95 Fr. Griffin Road in field to rear of laneway controlled by No. 93



Plate 2 – slab before array erected



Location with star. Source: Google Earth

