

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 23/13

NAME OF APPLICANT: Declan & Mark Egan

ADDRESS: C/O Paraic Fay, C.L.W. Environmental Planners Ltd.
The Mews,
23 Farnham St.,
Cavan

ADDRESS FOR CORRESPONDENCE: C/O Paraic Fay, C.L.W. Environmental Planners Ltd.
The Mews,
23 Farnham St.,
Cavan

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the construction of a manure storage shed, ancillary structures and associated site works is or is not development and if so, is or is not exempted development.

LOCATION OF DEVELOPMENT: Lowerheath, Fivealley, Birr, Co. Offaly.

WHEREAS A question referred to Offaly County Council on 09/05/2023 as to whether the construction of a manure storage shed, ancillary structures and associated site works is or is not development and if so, is or is not exempted development under the Planning and Development Act 2000, (as amended) at Lowerheath, Fivealley, Birr, Co. Offaly.

AND WHEREAS the Planning Authority, in considering this declaration request, had regard particularly to-

- (a) Section 2(1) of the Planning & Development Act 2000, as amended.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Section 4 of the Planning & Development Act 2000, as amended.
- (d) Article 6 of the Planning and Development Regulations 2001, as amended.
- (e) Article 9 of the Planning and Development Regulations 2001, as amended.
- (f) Schedule 2, Part 3, Class 8 of the Planning and Development Regulations 2001, as amended

AND WHEREAS Offaly County Council has concluded that –

- The work is considered **development** and is **exempted development**.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5(2) of the Planning and Development Act 2000 (as amended), hereby decides that

- The construction of a manure storage shed, ancillary structures and associated site works is **development** and is **exempted development**.

MATTERS CONSIDERED In making its decision, the Planning Authority had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.



Administrative Officer

18/7/2023

Date

Note: Any person issued with a Declaration may on payment to An Bord Pleanála, 64 Marlborough Street Dublin 2 of such fees as may be described refer a declaration for review by the board within four weeks of the issuing of the Declaration.

Planning Report - Section 5 Declaration

File Reference:	<i>Dec 23-13</i>
Question:	<i>Whether the construction of a manure storage shed, ancillary structures and associated site works is or is not development and if so, is or is not exempted development.</i>
Applicant:	<i>Declan & Mark Egan</i>
Correspondence Address:	<i>c/o Paraic Fay, C.L.W. Environmental Planners Ltd. The Mews, 23 Farnham St., Cavan.</i>
Location:	<i>Lowerheath, Fivealley, Birr, Co. Offaly.</i>

SECOND REPORT

The following further information was requested:

- (a) The Applicant shall provide a more detailed breakdown of each of the agricultural structures which are located within the existing farmyard at the subject site. This response shall include:
- (i) Internal and external photographs of each structure.
 - (ii) A revised site plan which provides the classification of the structures which are deemed to be of a Class 6, 7, 8 or 9 development, having regard to Part 3 of Schedule 2 (Rural Development) of Planning & Development Regulations 2001 – as amended).

The applicant has indicated that there is one other existing Class 8 structure in the farmyard which has an area of 150sqm.

Appropriate Assessment Screening

A screening exercise for an appropriate assessment has been carried out and it has been deemed that the development is unlikely to have significant effects on any European sites. Please see attached report.

I consider that the works are development and are exempted development.

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to:

- *Whether the construction of a manure storage shed, ancillary structures and associated site works is or is not development and if so, is or is not exempted development*

At Lowerheath, Fivealley, Birr, Co. Offaly

AND WHEREAS Declan & Mark Egan has requested a declaration on the said question from Offaly County Council;

AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to:

- (a) Section 2(1) of the Planning & Development Act 2000, as amended.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Section 4 of the Planning & Development Act 2000, as amended.
- (d) Article 6 of the Planning and Development Regulations 2001, as amended.
- (e) Article 9 of the Planning and Development Regulations 2001, as amended.
- (f) Schedule 2, Part 3, Class 8 of the Planning and Development Regulations 2001, as amended

AND WHEREAS Offaly County Council has concluded that –

- The work is considered development and is exempted development.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5(2) hereby decides that;

- *The construction of a manure storage shed, ancillary structures and associated site works is development and is exempted development.*

Ed Kelly

Ed Kelly EP

17/7/2023

Date

Carroll Melia

Carroll Melia (A/Senior Executive Planner)

18th July 2023

Date

APPENDIX A

APPROPRIATE ASSESSMENT SCREENING REPORT FOR PLANNING APPLICATIONS

Screening is used to determine if an AA is necessary by examining:

- If the plan / project is directly connected with / necessary to the management of the European site.
- If the effects will be significant on a European site in view of its conservation objectives, either alone / in combination with other plans / projects.



Planning Authority: OCC

Planning Application Ref. No: DEC 23-13

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Agricultural manure storage shed		
Site location:	Lowerheath, Fivealley, Birr, Co. Offaly		
Site size:	Not provided	Floor Area of Proposed Development:	147.5m²
Identification of nearby European Site(s):	Dovegrove Callows SPA – 6.87km Ridge Road, SW of Rapemills SAC – 7.79km All Saints Bog and Esker SAC – 8.55km All Saints Bog SPA – 8.74km River Little Brosna Callows SPA – 9.53km		
Distance to European Site(s):	As above – all as crow flies		
The characteristics of existing, proposed or other approved plans / projects which may cause interactive / cumulative impacts with the project being assessed and which may affect the European site:	None		
Is the application accompanied by an EIAR?	No: X		
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):	Dovegrove Callows SPA – Features of Interest include: <ul style="list-style-type: none"> Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] Ridge Road, SW of Rapemills SAC– Features of Interest include: <ul style="list-style-type: none"> Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210] All Saints Bog SAC– Features of Interest include: <ul style="list-style-type: none"> Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210] Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the <i>Rhynchosporion</i> [7150] Bog woodland [91D0] All Saints Bog SPA– Features of Interest include: <ul style="list-style-type: none"> Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] River Little Brosna Callows SPA– Features of Interest include: <ul style="list-style-type: none"> Whooper Swan (<i>Cygnus cygnus</i>) [A038] Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] 		

- Shoveler (*Anas clypeata*) [A056]
- Golden Plover (*Pluvialis apricaria*) [A140]
- Lapwing (*Vanellus vanellus*) [A142]
- Black-tailed Godwit (*Limosa limosa*) [A156]
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
- Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]
- Wetland and Waterbirds [A999]

The conservation objectives / qualifying interests of the site and the factors that contributes to the conservation value of the site: (which are taken from the European site synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) (ATTACH INFO.)

SITE NAME: DOVEGROVE CALLOWS SPA, SITE CODE: 004137

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004137.pdf>

SITE NAME: ALL SAINTS BOG SPA, SITE CODE: 004103

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004103.pdf>

SITE NAME: RIVER LITTLE BROSNA CALLOWS SPA, SITE CODE: 004086

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004086.pdf>

Site Name: Ridge Road, SW of Rapemills SAC, Site Code: 000919

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000919.pdf>

(C) NPWS ADVICE:

Advice received from NPWS over phone:	None Received
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Summary of advice received from NPWS in written form (ATTACH SAME):	None Received
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(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:

(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).

If the answer is 'yes' to any of the questions below, then the effect is significant. (Please justify your answer. 'Yes' / 'No' alone is insufficient)

Would there be...	
... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).	Not likely due to the location and type of development. The site is sufficient distance from the European site.
... a reduction in habitat area on a European site?	There will be no reduction in the habitat area. The site is sufficient distance from the European site.
... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the European site?	Not likely due to the location and type of development. The site is sufficient distance from the European site.
... serious / ongoing disturbance to species / habitats for which the European site is selected (e.g. because of increased noise, illumination and human activity)?	Not likely due to the location and type of development. The site is sufficient distance from the European site.
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?	None likely due to the location and type of development. The site is sufficient distance from the European site.
Would the project interfere with mitigation measures put in place for other plans / projects. [Look at <i>in-combination effects</i> with completed, approved but not completed, and proposed plans / projects. Look at projects / plans within and adjacent to European sites and identify them]. Simply stating that there are no cumulative impacts' is insufficient.	No other plans known of in the vicinity of the site. The site is sufficient distance from the European site.

(E) SCREENING CONCLUSION:

Screening can result in:

1.	<i>AA is not required</i> because the project is directly connected with / necessary to the nature conservation management of the site.	
2.	<i>No potential for significant effects / AA is not required.</i>	
3.	<i>Significant effects are certain, likely or uncertain.</i> (In this situation seek a Natura Impact Statement from the applicant, or reject the project. Reject if too potentially damaging / inappropriate.	
Therefore, does the project fall into category 1, 2 or 3 above?		Category 2
Justify why it falls into relevant category above:		There would be no likely significant impact on the European site from the proposed development due to the scale of the proposed development and the separation distance between the subject site and European Site.
Name:	Ed Kelly	
Position:	Executive Planner	Date: 17/7/2023