

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

REFERENCE: DEC 17/4

NAME AND ADDRESS OF APPLICANT: Mr Thomas Roche

ADDRESS FOR CORRESPONDENCE: "Bridget's View", Rathcobican, Rhode, Co. Offaly

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Acts 2000, as amended as to whether a domestic shed built in 1978 at 2.6 metres high is considered exempt under Class 33(c) of the Planning and Development Regulations 2001 as amended .

LOCATION OF DEVELOPMENT: 113 Arden Vale, Tullamore, Co. Offaly

WHEREAS a question referred to Offaly County Council on 7th March 2017 has arisen as to whether a domestic shed built in 1978 at 2.6 metres high at 113 Arden Vale, Tullamore, Co. Offaly is considered exempt under Class 33(c) of the Planning and Development Regulations 2001 as amended.

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

- (a) Section 2 of the Planning and Development Act, 2000, as amended.
- (b) Section 3 of the Planning and Development Act, 2000 as amended.
- (c) Article 11 of the Planning and Development Regulations 2001 as amended.
- (d) Article 10 of the Local Government (Planning and Development) Regulations, 1977
- (e) Schedule 3, Part 1, Class 3 of the Local Government (Planning and Development) Regulations, 1977.

AND WHEREAS Offaly County Council has concluded that –

The proposed development **IS Development and IS Exempted Development.**

NOW THEREFORE Offaly County Council, in exercise of powers conferred on it by Section 5 (2) of the Planning and Development Act 2000, as amended, hereby decides that a domestic shed built in 1978 at 2.6 metres high at 113 Arden Vale, Tullamore, Co. Offaly **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

28/3/2017
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 Dec 17/4

Re: Section 5 Declaration

A question has arisen as to whether:

L.M. A domestic shed built in 1978 *at 2.6 metres high.*

and associated works at 113 Arden Vale, Tullamore Co Offaly is/is not development and is or is not exempted development.

Assessment

I refer to the above. I have inspected the site and noted and considered the submissions on file. I would consider the works subject of this declaration to be development and to be exempted development having considered Sections 2, 3 of the Planning & Development Act 2000 as amended and the Planning and development regulations 2001 as amended article 11 and article 10 of the Local Government (Planning and Development) Regulations, 1977 and the third schedule of the 1977 regulations.

Section 2 of the planning acts as amended states:

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

Section 3:

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.

Planning and development regulations 2001 as amended.

Article 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.

Furthermore I would consider that the development is exempt due to the following exemptions in the 1977 planning regulations

LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) REGULATIONS, 1977

10. (1) Subject to article 11, development of each class specified in column 1 of Part I of the Third Schedule shall be exempted development for the purposes of the Acts, provided such development complies with the limitations specified in the said column 1 in relation to that class and with the conditions specified in column 2 of the said Part I opposite the mention of that class in the said column 1.

THIRD SCHEDULE

PART I

EXEMPTED DEVELOPMENT—GENERAL

CLASS 3

Conditions

The erection, construction or placing within the curtilage of a dwelling house of any tent, awning, shade or other object, greenhouse, garage, shed or other similar structure.

1. The height above ground level of any such structure shall not exceed, in the case of a building with a tiled or slated ridged roof, 4 metres or any other case, 3 metres.

2. The structure shall not be used for human habitation or for the keeping of pigs or poultry or for any other purpose other than a purpose incidental to the enjoyment of the dwelling house as such.

I would therefore recommend that the following Managers Order issue

WHEREAS a question has arisen as to whether:
A domestic shed built in 1978

and associated works

At 113 Arden Vale, Tullamore Co Offaly and associated works is development and is or is not exempted development.

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

Sections 2 and of the Planning & Development Act 2000 as amended and
Sections 3 and of the Planning & Development Act 2000 as amended and
Article 11 of the Planning and development regulations 2001 as amended
Article 10 of the Local Government (Planning and Development) Regulations, 1977

Schedule 3, Part 1, Class 3 of the Local Government (Planning and Development) Regulations, 1977

AND WHEREAS Offaly County Council has concluded that –

The proposed works is 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:

A domestic shed built in 1978

at 113 Arden Vale, Tullamore Co Offaly and associated works is development and is exempted development.



Ed Kelly
Exec Planner
23/3/2017

Linton of 28/3/17
report noted
28/3/17