

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

REFERENCE: DEC 19/17

NAME OF APPLICANT: Janine Scicluna & Liam Fallon

ADDRESS FOR CORRESPONDENCE: Shannonbridge
Athlone
Co. Offaly

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether bringing soil & gravel to a site to improve it by rising the height over the road, is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Cloniffeen, Garrycastle, Co. Offaly

WHEREAS a question referred to Offaly County Council on 25th October 2019 has arisen as to whether bringing soil & gravel to a site to improve it by rising the height over the road at Cloniffeen, Garrycastle, Co. Offaly is or is not development and is or is not exempted development under the Planning and Development Act 2000, (as amended).

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

- (a) Sections 2, 3 & 4 of the Planning and Development Act 2000, as amended
- (b) Article 6 of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that –

The proposed works **Is Development and IS NOT 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 bringing soil & gravel to a site to improve it by rising the height over the road at Cloniffeen, Garrycastle, Co. Offaly **IS DEVELOPMENT AND IS NOT 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

6/12/19

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:	Dec 19/17
Question:	<i>Whether the following is development and if so, exempted development: (a) Bring soil and gravel onto site (from another identified site) to improve site by raising the height over the road.</i>
Applicant:	<i>Janine Scicliuna & Liam Fallon</i>
Correspondence Address:	<i>Shannonbridge, Athlone, Co. Offaly</i>
Location:	<i>Cloniffeen, Garrycastle, Co. Offaly</i>

SECOND REPORT ON FILE

1. Introduction

The question has arisen as to whether bringing soil and gravel onto a site to improve the area (as shown on submitted map) is or not development, and is or is not exempted development.

The Applicants advise that the importation of the soil is intended to improve the subject site by raising the height of the land over the adjoining road. The source of the soil and gravel is the site of the permitted Lumcloon Energy Storage Facility at Lumcloon, Cloghan, Co. Offaly.

2. Further Information

Further information was sought by the Planning Authority on 21st November 2019 and subsequently received by the Planning Authority on 21st November 2019 out of business hours (date stamped 22nd November). This report should be read in conjunction with the previous planner's report dated 20th November 2019. The following further information was sought and the response is as follows:

(a) *Provide details on the volume of soil and gravel that it is proposed to import onto the subject site at Cloniffeen.*

The Applicants confirm that volume of sand and gravel that they wish to import onto the subject site is 5,000m³.

(b) *Provide details on the proposed increase in height (i.e. difference between the existing natural ground level and proposed ground level) at the subject site at Cloniffeen.*

The Applicants confirm that the increase in height would be 1.2m and it will be a road level.

(c) *Clarify if there is an existing approved entrance to the subject site at Cloniffeen. If so, please indicate the location of this entrance on a suitably scaled site*

location map (to a scale of not less than 1:2500). If no access is currently available to the site, please confirm how it is proposed to gain access.

The Applicants confirm that there is an existing entrance to the subject site.

Planners Appraisal on Items (a) – (c): The further information received by the Planning Authority in relation to items (a), (b) and (c) have been assessed and it is deemed satisfactory.

3. Evaluation

Having assessed the Further Information received and the previous planning report on file, it is considered the proposed importation of soil and gravel onto the subject site is development and is not exempted development.

There are no exemptions under the current Planning legislation that allows for the movement of such volumes of soil or increase in the natural ground level of land without obtaining planning permission.

to gravel

cm

4. Conclusion

WHEREAS a question has arisen as to whether or not the bringing of soil and gravel onto a site to improve the subject site (in this case, increase the natural ground level) is or not development, and is or is not exempted development at Cloniffeen, Garrycastle, Co. Offaly is or not development and is or is not exempted development.

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

- a) Sections 2, 3 & 4 of the Planning & Development Act 2000, as amended.
- b) Article 6 of the Planning & Development Regulations, 2001, as amended.


AND WHEREAS Offaly County Council has concluded that –


The proposed development is development and is not exempted development.

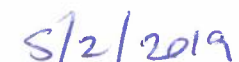
NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) of the Planning and Development Act, as amended, hereby decides;

That the bringing of soil and gravel onto a site to improve the subject site is development and is not exempted development.


Una McCafferkey
Assistant Planner


Date


Carroll Melia
(A/Senior Executive Planner)


Date