

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

REFERENCE: DEC 19/2

NAME AND ADDRESS OF APPLICANT: Joseph & Jane Hobson, Church Road,
Clonbullogue, Co. Offaly

ADDRESS FOR CORRESPONDENCE: C/o Kavanagh & Associates, Astral House, Eyre Street,
Newbridge, Co. Kildare.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the demolition of existing flat roof garage/ fuel store to rear of existing dwelling and construction of new 24.9sqm domestic garage and construction of a new 199sqm barn style stable building with all ancillary facilities to be located in the field to the rear of the applicant's property is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Church Road, Clonbullogue, Co. Offaly.

WHEREAS a question referred to Offaly County Council on 23/01/2019, has arisen as to whether the demolition of existing flat roof garage/ fuel store to rear of existing dwelling and construction of new 24.9sqm domestic garage and construction of a new 199sqm barn style stable building with all ancillary facilities to be located in the field to the rear of the applicant's property is or is not 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) Section 2 (1) & 3(1) of the Planning & Development Act 2000, as amended
- (b) Schedule 2, Article 6, Part 1 – Exempted Development – General
- (c) Schedule 2, Article 6, Part 3 – Exempted Development – Rural

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 the demolition of existing flat roof garage/ fuel store to rear of existing dwelling and construction of new 24.9sqm domestic garage and construction of a new 199sqm barn style stable building with all ancillary facilities to be located in the field to the rear of the applicant's property **Is Development and Is Exempted Development** at Church Road, Clonbullogue, Co. Offaly.

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

Date 19/2/19

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 19/2

QUESTION:

Whether the demolition of existing flat roof garage/fuel store to rear of existing dwelling and construction of new 24.9 sqm domestic garage and construction of a new 199 sqm barn style stable building with all ancillary facilities to be located in the field to the rear of the applicant's property at Church Road, Clonbullogue. is or is not development and is or is not exempted development.

APPLICANT:

Joseph and Jane Hobson

CORRESPONDENCE ADDRESS:

C/O Kavanagh and Associates,
Astral House, Eyre Street, Newbridge, Co/ Kildare

LOCATION:

Church Road, Clonbullogue, Co Offlay.

1. INTRODUCTION:

This referral is a request under Section 5 of the Planning and Development Act 2000, as amended, in respect of the above development.

There are 2 elements to this question which will be dealt with separately for the purposes of clarity, namely;

- I) Demolition of Domestic shed and replacement with Domestic Shed. (24.9m2)
- II) Agricultural Shed (199m2)

2. SITE HISTORY

N/A

4. LEGISLATIVE FRAMEWORK

In order to assess whether or not the proposed works constitute exempted development, regard must be had to the following items of legislation:

Statutory Provisions:

- I) The demolition of the domestic shed and replacement with domestic shed (24.9m2)

Planning and Development Act, 2000

S.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. S.4 (1) (a) – (l) set out what is exempted development for the purposes of this Act.

Planning and Development Regulations, 2001 Article 6 (1)

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 of the said Part 1 opposite the mention of that class in the said column 1.

Schedule 2 Article 6 Part 1 – Exempted Development General

CLASS 3 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:

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.

II) The Agricultural Shed

Planning and Development Act, 2000

Section 2 "Agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur or for the purpose of its use in the farming of land, the training of horses and the rearing of bloodstock, the use of the land as grazing lands, meadow land, osier land, market gardens and nursery grounds and agricultural shall be constructed accordingly "structure" means any building, structure, excavation or other thing constructed or made on, in or under land or any part of structure so defined and where in the context so admits includes the land on, in or under which the structure is situate "Works" includes any Act or operation of the construction, excavation, demolition, extension, alteration, repair or renewal. 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.

Schedule 2 Article 6 Part 3 – Exempted Development – Rural

CLASS 6 Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

1. No such structure shall be used for any purpose other than the purpose of agriculture.
2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
5. No such structure within 100 metres of any public road shall exceed 8 metres in height.
6. No such structure shall be situated, and no effluent from such structure shall be stored, 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.
7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

5. EVALUATION:

A) "Is or is not Development"

- I) *(Demolition of Domestic Shed and replacement with Domestic Shed)* In this instance, the proposal involves the demolition of an existing domestic shed and construction of a replacement domestic shed of 24.9 sq.ms, hence would involve "works" within the meaning of Section 3 of the Act. Such works constitute "development" within the meaning of the Act.
- II) *(Agricultural Shed)* In this instance, the proposal involves the construction of a rural agricultural building to house horses, hence would involve "works" within the meaning of Section 3 of the Act. Such works constitute "development" within the meaning of the Act.

B) "Is or is not Exempted Development"

I) (Domestic Shed) According to **Schedule 2 Article 6 Part 1 – Exempted Development General** of the Planning and Development Act 2001, as amended, the provision of a domestic shed under 25 sqms is exempt development, subject to the conditions outlined therein.

II) (Agricultural Shed) According to **Schedule 2 Article 6 Part 3 – Exempted Development Rural** of the Planning and Development Act 2001, as amended, the provision of an Agricultural shed under 200 sqm is exempt development, subject to the conditions outlined therein.

Note:

The proposed agricultural shed is under 200 sq.m

There are no other sheds on the landholding.

There is a letter of consent on file from both residences within 100 metres of the proposal

6. CONCLUSION

I conclude that (I) *the demolition of Domestic Shed* and construction of a replacement domestic shed and (II) the construction of an agricultural shed for horses, as outlined in submission is development and is exempted development.

24.9 DM

WHEREAS a question has arisen as to whether:

Whether the demolition of existing flat roof garage/ fuel store to rear of existing dwelling and construction of new 24.9sqm domestic garage and construction of a new 199 sqm Barn Style Stable Building, is or is not exempted development under the Planning and Development Act 2000 (as amended).

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

- (a) Sections 2(1), & 3(1) of the Planning and Development Act 2000, as amended.
- (b) Schedule 2 Article 6 Part 1 – Exempted Development- General
- (c) Schedule 2 Article 6 Part 3 – Exempted Development- Rural

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 the demolition of existing flat roof garage/ fuel store to rear of existing dwelling and construction of new 24.9sqm domestic garage and construction of a new 199 sqm Barn Style Stable Building, is or is not exempted development under the Planning and Development Act 2000 (as amended) is development and is exempted development at Church Road Clonbullogue, Co. Offaly.

pm

D. Meehan
Executive Planner

18/02/2019

Carroll Melia
A/Senior Executive Planner

19/2/2019