

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 19/6

NAME AND ADDRESS OF APPLICANT: Seamus Sherlock
Kilmainham,
Mountmellick,
Co. Laois

ADDRESS FOR CORRESPONDENCE: Kilmainham,
Mountmellic,
Co. Laois

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the stripping of topsoil, the intermittent continuous extraction of material from the ground, processing of extracted material, hauling of the extracted and processed material (for possible sale or reward), disposal of "new" construction (concrete blocks etcetera) waste on site and the leaving of heavy plant and quarrying equipment on site to enable the above to continuously take place and associated works at Aughamore, Co. Offaly, is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Aughamore, Clara, Co. Offaly

WHEREAS a question referred to Offaly County Council on 19th March 2019 has arisen as to whether the stripping of topsoil, the intermittent continuous extraction of material from the ground, processing of extracted material, hauling of the extracted and processed material (for possible sale or reward), disposal of "new" construction (concrete blocks etcetera) waste on site and the leaving of heavy plant and quarrying equipment on site to enable the above to continuously take place and associated works at Aughamore, Co. Offaly 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) in this Act, except where the context otherwise requires – "development" has the meaning assigned to it by Section 3, and "develop" shall be construed accordingly;
- (b) Sections 3 of the Planning & Development Act 2000 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 the stripping of topsoil, the intermittent continuous extraction of material from the ground, processing of extracted material, hauling of the extracted and processed material (for possible sale or reward), disposal of "new" construction (concrete blocks etcetera) waste on site and the leaving of heavy plant and quarrying equipment on site to enable the above to continuously take place and associated works at Aughamore, 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

12/4/19
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 Dec 19/6

Re: Section 5 Declaration

A question has arisen as to whether:

The stripping of top soil, the intermittent continuous extraction of material from the ground, processing of extracted material, hauling of the extracted and processed material (for possible sale or reward) disposal of "new" construction (concrete blocks etc) waste on site and the leaving of heavy plant and quarrying equipment on site to enable the above to continuously take place

and associated works at Aughamore 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 proposed changes to be development having considered Sections 3 of the Planning & Development Act 2000 as amended.

I note that the declaration refers to two enforcement files UD 15/54 and UD 16/2. I note that one of the warning letters on file UD 15/54 incorrectly references number UD 16/2 and therefore UD 16/2 will be disregarded.

Section 2

2.— (1) In this Act, except where the context otherwise requires—
"development" has the meaning assigned to it by section 3, and "develop" shall be construed accordingly;.....

"quarry" means an excavation or system of excavations made for the purpose of, or in connection with, the getting of minerals (whether in their natural state or in solution or suspension) or products of minerals, being neither a mine nor merely a well or bore-hole or a well and bore-hole combined, and shall be deemed to include —

(i) any place on the surface surrounding or adjacent to the quarry occupied together with the quarry for the storage or removal of the minerals or for the purposes of a process ancillary to the getting of minerals, including the breaking, crushing, grinding, screening, washing or dressing of such minerals but, subject thereto, does not include any place at which any manufacturing process is carried on;

(ii) any place occupied by the owner of a quarry and used for depositing refuse from it but any place so used in connection with two or more quarries, and occupied by the owner of one of them, or by the owners of any two or more in common, shall be deemed to form part of such one of those quarries as the Minister may direct;

(iii) any line or siding (not being part of a railway) serving a quarry but, if serving two or more quarries shall be deemed to form part of such one of them as the Minister may direct;

(iv) a conveyor or aerial ropeway provided for the removal from a quarry of minerals or refuse.

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.

Furthermore I would consider that the development is not exempt due to the fact that no exemption exists for quarrying developments.

Chief Executive

cn

I would therefore recommend that the following ~~Managers~~ Order issue

WHEREAS a question has arisen as to whether the:

The stripping of top soil, the intermittent continuous extraction of material from the ground, processing of extracted material, hauling of the extracted and processed material (for possible sale or reward) disposal of “new” construction (concrete blocks etc) waste on site and the leaving of heavy plant and quarrying equipment on site to enable the above to continuously take place

At Aughamore 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-

(A) 2.— (1) In this Act, except where the context otherwise requires—
“development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly;

(B) Sections 3 and of the Planning & Development Act 2000 as amended and

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 the powers conferred on it by Section 5 (2) hereby decides that the:

Stripping of top soil, the intermittent continuous extraction of material from the ground, processing of extracted material, hauling of the extracted and processed material (for possible sale or reward) disposal of "new" construction (concrete blocks etc) waste on site and the leaving of heavy plant and quarrying equipment on site to enable the above to continuously take place

at Aughamore Co Offaly and associated works is development and is not exempted development.


Ed Kelly
Exec Planner
4/4/2019


Carroll Melia
A/ Snr Exec Planner

11/4/2019