

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 21/03

NAME OF APPLICANT: DONNACHA REYNOLDS

ADDRESS C/O BRIAN ENGLAND,  
STONEYACREA,  
CLOUGHJORDAN,  
CO. TIPPERARY.

ADDRESS FOR CORRESPONDENCE: C/O BRIAN ENGLAND,  
STONEYACREA,  
CLOUGHJORDAN,  
CO. TIPPERARY.

**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the provision of an agricultural shed 158.3m<sup>2</sup> in area with underground effluent storage tank for livestock housing and associated works to yard at Ballycormick, Moneygall, Birr, Co. Offaly is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** Ballycormick, Moneygall, Birr, Co. Offaly

**WHEREAS** a question referred to Offaly County Council on 29/01/2021 & Further Information received on 25/02/2021 as to whether the provision of an agricultural shed 158.3m<sup>2</sup> in area with underground effluent storage tank for livestock housing and associated works to yard at Ballycormick, Moneygall, Birr, 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 and 4 of the Planning and Development Act 2000 (as amended);
- (b) Article 6 and Article 9(1) (a) (viii) of the Planning and Development Regulations 2001 (as amended)
- (c) Classes 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended);

**AND WHEREAS** Offaly County Council has concluded that the provision of an agricultural shed 158.3m<sup>2</sup> in area with underground effluent storage tank for livestock housing and associated works to yard at Ballycormick, Moneygall, Birr, Co. Offaly comes within the scope of Classes 6 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001;

**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 provision of an agricultural shed 158.3m<sup>2</sup> in area with underground effluent storage tank for livestock housing and associated works to yard **is development** and **is exempted development** at Ballycormick, Moneygall, Birr, 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.

  
A/Senior Executive Officer

15/3/2021.  
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

<b>File Reference:</b>	<b>Dec 21-03</b>
<b>Question:</b>	<i>Whether the provision of an agricultural shed 145m<sup>2</sup> in area with underground effluent storage tank for livestock housing and associated works to yard is or is not development and if so, is or is not exempted development.</i>
<b>Applicant:</b>	<i>Donnacha Reynolds</i>
<b>Correspondence Address:</b>	<i>c/o Brian England, Stoneyacrea, Cloughjordan, Co. Tipperary.</i>
<b>Location:</b>	<i>Ballycormick, Moneygall, Birr, Co. Offaly</i>

### SECOND REPORT ON FILE

#### 1. Introduction

The question has arisen as to whether the proposed development, an agricultural shed 145m<sup>2</sup> in area with underground effluent storage tank for livestock housing and associated works to yard, is or is not development, and if so, is or is not exempted development.

#### 2. Review of Further Information

Further information (FI) was sought by the Planning Authority on 22<sup>nd</sup> February 2021 and subsequently received by the Planning Authority on 25<sup>th</sup> February 2021. This report should be read in conjunction with the previous planner's report dated 19<sup>th</sup> February 2021. The following FI was sought and the response is as follows:

- (a) *Clarification on the subject site location as there appears to be a discrepancy between the location indicated on the Site Location Map and location indicated on the site location map (scale 1:2,500) and site layout plan.*

The Applicant has provided a Site Location Map (scale 1:2,500) which confirms that location that relates to the Section 5 Declaration application.



Photo 1: Site Location

(b) *Confirmation on the gross floor area of the gross floor area of the roofed structure. The Planning Authority note that the question posed in the submitted application form refers to an area of 145m<sup>2</sup> while Drawing No. A3\_3027 refers to a roofed area of 158.3m<sup>2</sup>.*

The Applicant confirms that the gross floor area of the proposed roofed structure is 158.3m<sup>2</sup> and not 145m<sup>2</sup> as detailed in the submitted declaration application form. This revised floor area will be noted in the Planning Authority's response.

(c) *Letter from a suitably qualified Agricultural Consultant stating the proposed effluent storage facilities are adequate to serve the structure having regard to its size, use and location and 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.*

The Applicant has provided a letter from Liam Butler (Agri Advisor) of Gilrane & Associates – Agricultural, Environmental & Rural Consultants which states:

- The proposed storage facilities will provide adequate storage capacity for the proposed animal housing facilities.
- The Applicant intends to apply for a TAMS grant through the Dept. of Agriculture which will ensure the proposed development is constructed to the Department's specifications.
- As such, the provision of the proposed animal housing/waste storage facilities and associated works will be in adherence to all agri/environmental regulations and practices and will ensure the applicant's full compliance with the Nitrates Directive.

The Applicants response is deemed acceptable.

### **3. Evaluation**

Having reviewed the Applicants response to the RFI, the Planner concludes the following:

#### **a) "Is or is not Development"**

As the proposed works comprises of the construction of an agricultural building, it is considered that the works are 'development' in accordance with section 3(1) of the Planning and Development Act, 2000, as amended.

#### **b) "Is or is not Exempted Development"**

The construction of the proposed agricultural building is considered to be exempted development.

### **4. Recommendation**

Based on the information provided by the Applicant on the 29<sup>th</sup> January 2021 and 25<sup>th</sup> February 2021, it is recommended that the development as described in the application is development and is 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 provision of an agricultural shed (gross floor area 158.3m<sup>2</sup>) with underground effluent storage tank for livestock housing and associated works to yard at Ballycormick, Moneygall, Birr, Co. Offaly is or is not development and if so, is or is not exempted development.

**AND WHEREAS** Donnacha Reynolds c/o Brian England requested a declaration on the said question from Offaly County Council;

**AND WHEREAS** Offaly County Council as the Planning Authority, in considering this declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);
- Article 6 and Article 9(1) (a) (viii) of the Planning and Development Regulations 2001 (as amended)
- Classes 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended);

**AND WHEREAS** Offaly County Council has concluded that the proposed agricultural shed with underground effluent storage tank for livestock housing and associated works comes within the scope of Classes 6 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001;

**NOW THEREFORE** Offaly County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the erection of an agricultural shed with underground effluent storage tank at Ballycormick, Moneygall, Birr, Co. Offaly is development and is exempted development.

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

Úna McCafferkey

Úna McCafferkey  
Assistant Planner

9<sup>th</sup> March 2021

Date

Carroll Melia

Carroll Melia  
(A/Senior Executive Planner)

12<sup>th</sup> March 2021

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 21-03

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Agricultural shed		
Site location:	Ballycormick, Moneygall, Birr, Co. Offaly		
Site size:	0.096ha	Floor Area of Proposed Development:	TBC
Identification of nearby European Site(s):	Kilduff, Devilsbit Mountain SAC – 6.33km Schoaboy (Sopwell) Bog SAC – 13.23km		
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?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>	
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):	<p><b>Kilduff, Devilsbit Mountain SAC – Features of interest include:</b></p> <ul style="list-style-type: none"> <li>European dry heaths [4030]</li> <li>Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</li> </ul> <p><b>Schoaboy (Sopwell) Bog SAC – Features of interest include:</b></p> <ul style="list-style-type: none"> <li>Degraded raised bogs still capable of natural regeneration [7120]</li> </ul>		
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 <a href="http://www.npws.ie">www.npws.ie</a> ) (ATTACH INFO.)	<p><b>Site Name: Kilduff, Devilsbit Mountain SAC, Site Code: 000934</b>  <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000934.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000934.pdf</a></p> <p><b>Site Name: Schoaboy (Sopwell) Bog SAC, Site Code: 002206</b>  <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002206.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002206.pdf</a></p>		
(C) NPWS ADVICE:			
Advice received from NPWS over phone:	None Received		
Summary of advice received from NPWS in written form (ATTACH SAME):	None Received		

**(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)

<b>Would there be...</b>	
... 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: Úna McCafferkey  


Position: Assistant Planner

Date: 9<sup>th</sup> March 2021