

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 25/76

NAME OF APPLICANT: Thomas Keneally.

ADDRESS FOR CORRESPONDENCE: C/O Gerry Byrne, Gurtray, Portumna, Co Galway. H53 EA07

NATURE OF APPLICATION: request for declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the proposed works consisting of (a) store, (b) calf house, (c) ancillary concrete and (d) underground precast tank is or is not development and is or is not exempted development

LOCATION OF DEVELOPMENT: Island Td, Cloughjordan, Co Offaly, E35 R660

WHEREAS a question has arisen as to whether the proposed works consisting of (a) store, (b) calf house, (c) ancillary concrete and (d) underground precast tank is or is not development and is or is not exempted development at Island Td, Cloughjordan, Co Offaly, E35 R660.

AS INDICATED on the particulars received by the Planning Authority on the 6th June 2025.

AND WHEREAS Thomas Keneally c/o Gerry Byrne, Gurtray, Portumna, Co Galway, H53 EA07 has requested a declaration on the said question from Offaly County Council;

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

- (a) Section 2 of the Planning & Development Act 2000, as amended.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Section 4(1) of the Planning & Development Act 2000, as amended.
- (d) Article 6(3) of the Planning and Development Regulations 2001, as amended.
- (e) Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001, as amended.

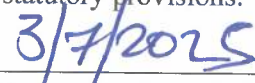
AND WHEREAS Offaly County Council has concluded that the proposed works is development and is exempted development.

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 proposed works consisting of (a) store, (b) calf house, (c) ancillary concrete and (d) underground precast tank, as detailed in the submitted documentation, is development and is exempted development at Island Td, Cloughjordan, Co Offaly, E35 R660.

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 include any submissions and observations received by it in accordance with statutory provisions.

  
Administrative Officer

  
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

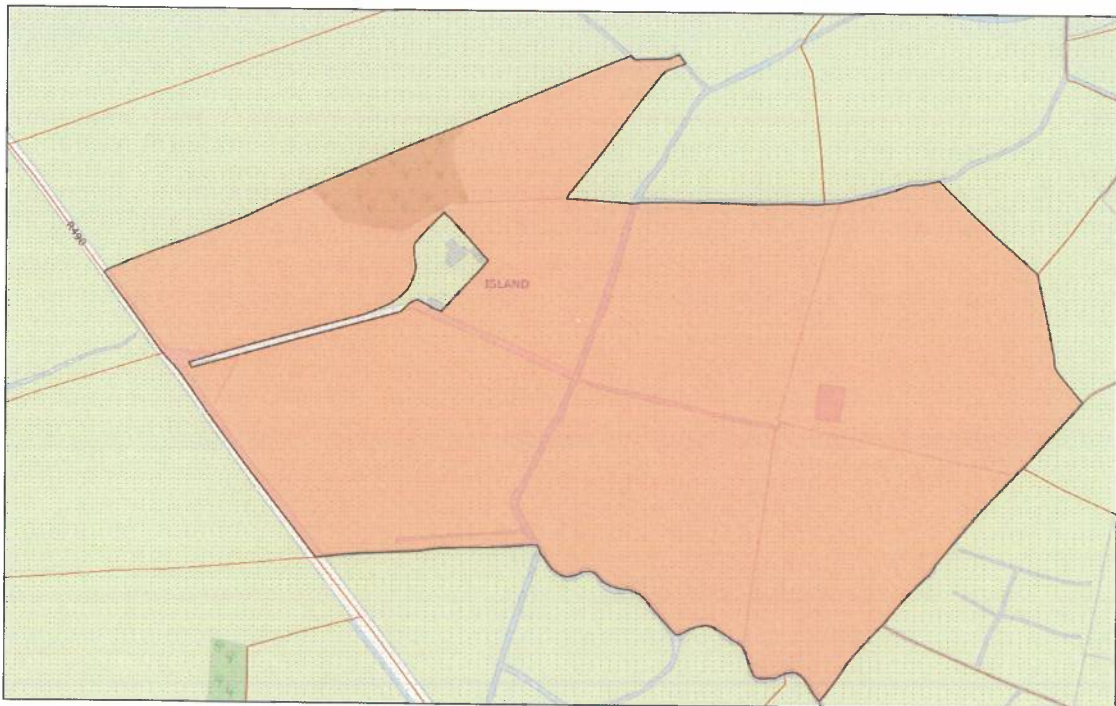
<b>File Reference:</b>	<b>Dec 25-76</b>
<b>Question:</b>	Whether the proposed works consisting of (a) store, (b) calf house, (c) ancillary concrete and (d) underground precast tank is or is not development and is or is not exempted development
<b>Applicant:</b>	Thomas Keneally
<b>Correspondence Address:</b>	c/o Gerry Byrne, Gurtray, Portumna, Co Galway. H53 EA07
<b>Location:</b>	Island Td, Cloughjordan, Co Offaly, E35 R660.

#### 1. Introduction

The question has arisen as to whether the construction of a store, calf house, ancillary concrete and underground precast tank is or is not development and is or is not exempted development. The proposed structure has a total gross floor area of 171.08m<sup>2</sup>.

#### 2. Site Description

The subject site is a greenfield site within an agricultural landholding (refer to Figure 1) which is located approximately 3km north of Moneygall Village. On the lands directly adjacent is an existing dwelling and outbuilding. Within the landholding, there appears to be an existing shed structure – refer to Photo 1 below.



*Figure 1: Land folio containing subject site.*



Photo 1: Subject Site (proposed location of new structure indicated).

### 3. Site History

03/310: Tomas & Elaine Kenneally sought permission for an extension and renovation of existing dwellinghouse, renovate outbuildings, widen existing entrance, demolish 1 no. hayshed (at rear of dwellinghouse) and 1 no. outbuilding (at side of dwellinghouse) – Granted.

### 4. Proposal by Applicant

The Applicant has submitted the following details:

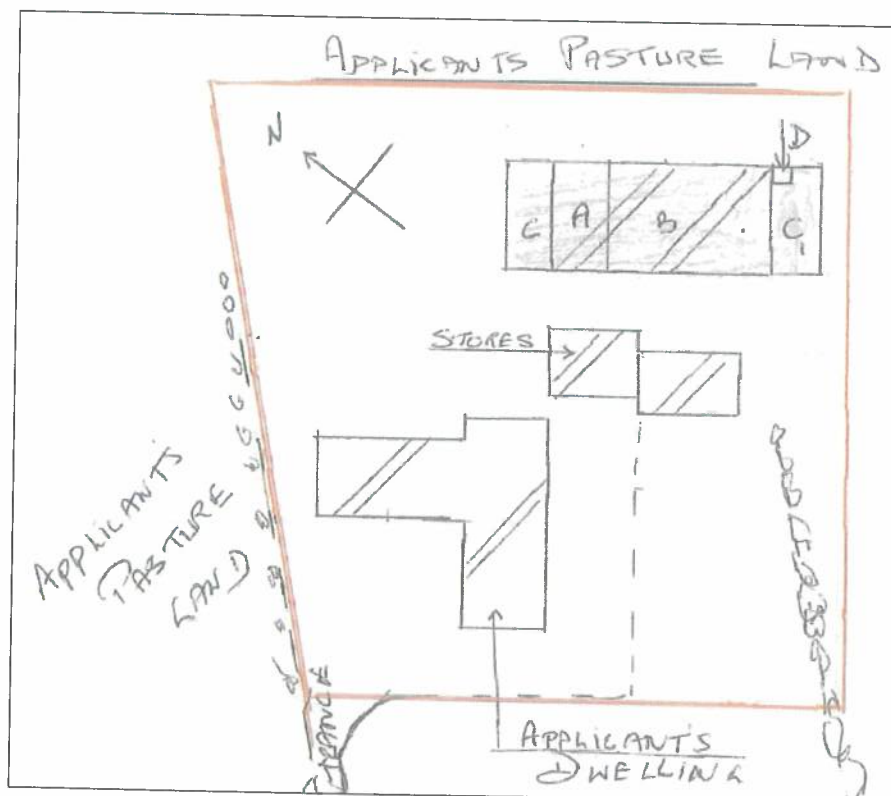


Figure 2: Proposed site layout plan.

A+B - The proposed area of the total structure is 18.8m x 9.1m internally = 171.08 sq. m.

D - Underground precast tank capacity is 2.2 cu.m.

Calf house B will be 14.2m 9.1m internally and store A will be 9.1 x 3.6 internally.

The calf house B will be used to rear young calves for 8 to 10 weeks in spring on straw beds, any seepage from the straw will be diverted to the underground effluent tank.

The proposed store A will be used to store calf feed etc.

There is no well or watercourse in the vicinity of the site

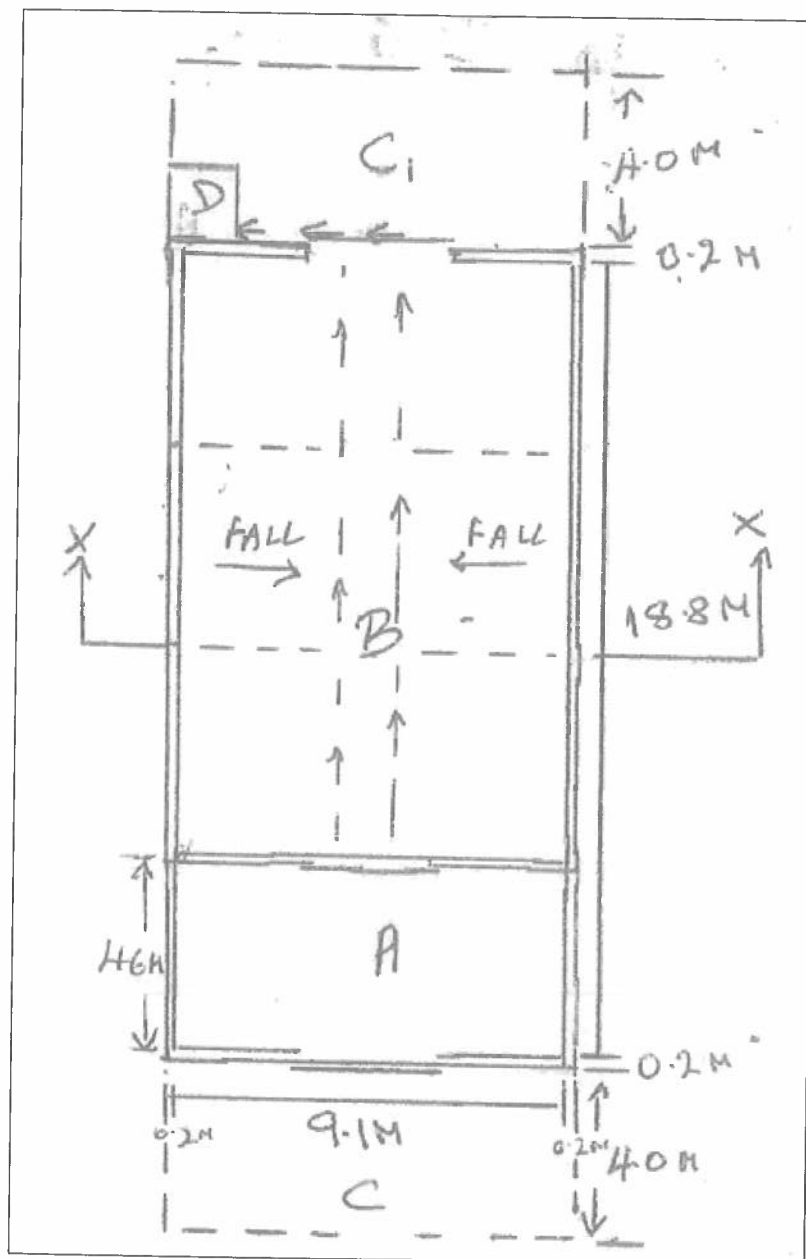


Figure 3: Proposed floor plan.

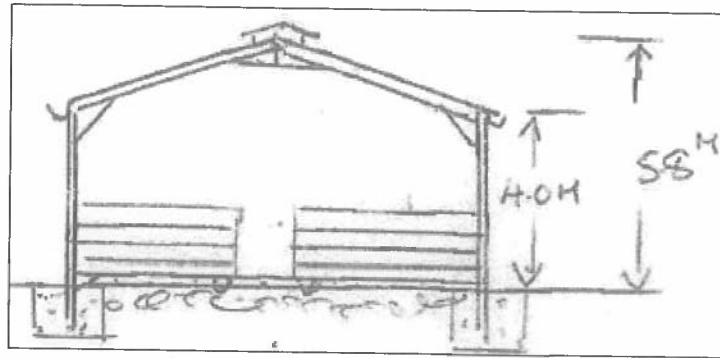


Figure 4: Proposed building section.

## 5. Legislative Context

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

**Section 2 (1) Planning and Development Act 2000 (as amended) states as follows:**

*“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*

*“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock...*

**Section 3 (1) Planning and Development Act 2000 (as amended) defines development as:**

*“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.*

### **Section 4 - Exempted Development, Planning and Development Act 2000 (as amended)**

Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of this Act including:

- (a) *Development consisting of the use of any land for the purposes of agriculture and development consisting of the use for that purpose of any building occupied together with land so used.*

### Regulatory Provisions

Article 6 of the Planning and Development Regulations 2001 (as amended) states:

- (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.*



- (3) Subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), development of a class specified in column 1 of Part 3 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 3 opposite the mention of that class in the said column 1.

Article 9 outlines the restrictions that are applicable to exempted development detailed in Schedule 2. In this instance, the relevant exempted development classes in Part 3 of Schedule 2 (Rural Development) is *Class 6 – Agricultural Structures*.

Column 1 Description of Development	Column 2 Conditions and Limitations
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.	<ol style="list-style-type: none"> <li>1. No such structure shall be used for any purpose other than the purpose of agriculture.</li> <li>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.</li> <li>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.</li> <li>4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.</li> <li>5. No such structure within 100 metres of any public road shall exceed 8 metres in height.</li> <li>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.</li> <li>7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</li> </ol>

The Planning Authority notes that the Applicant proposes an agricultural shed which will be used for the housing of cattle and storage with a gross floor area of 171.08m<sup>2</sup>.

## **6. Evaluation**

The proposed development is considered against the conditions and limitations of Class 6:

1. *No such structure shall be used for any purpose other than the purpose of agriculture.*

The Applicant has advised that the shed will be used as a calf house and associated storage.

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.*

The gross floor space will be 171.08m<sup>2</sup> and will establish a farmyard.

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.*

The Applicant notes that there will be an underground effluent tank.

4. *No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*

The structure will be located greater than 10m from the nearest public road.

5. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*

The structure is not located within 100m of a public road and does not exceed 8m 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.*

There are no houses within 100m of the proposed structure.

7. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

The material has not been specified but this condition/limitation will be highlighted to the Applicant.

It is the view of the Planning Authority that the proposed structure will be in accordance with the conditions and limitations with the exemption permissible under Class 6 – Agricultural Structures as contained in Part 3 of Schedule 2 (Rural Development) of the Planning & Development Regulations 2001 (as amended).

### **7. Appropriate Assessment**


Having regard to nature of the development which comprises of the construction of an agriculture structure at Island Td, Cloughjordan; distance of approximately 9.25km from the Kilduff, Devilsbit Mountain SAC and the lack of any pathway to a European site it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

### **8. Environmental Impact Assessment Screening**

Please refer to Appendix B; no EIA required.

### **9. Conclusion & Recommendation**

It is recommended that the Applicant be advised that the proposed development is **development** and is **exempted development**.



Úna McCafferkey  
Executive Planner

2nd July 2025

Date



Ed Kelly  
(A/Senior Planner)

2nd July 2025

Date



**Appendix A**

**EIA Screening**

<b>Establishing if the proposal is a 'sub-threshold development':</b>	
Planning Register Reference:	Dec 25/76
Development Summary:	Whether the proposed works consisting of (a) store, (b) calf house, (c) ancillary concrete and (d) underground precast tank is or is not development and is or is not exempted development at Island Td, Cloughjordan, Co Offaly, E35 R660.
Was a Screening Determination carried out under Section 176A-C?	<b>No, Proceed to Part A</b>
<b>A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1, of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)</b>	
No	<b>Proceed to Part B</b>
<b>B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2, of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)</b>	
No, the development is not a project listed in Schedule 5, Part 2	<b>No Screening required</b>



Una McCafferkey  
Executive Planner

2<sup>nd</sup> July 2025  
Date

**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 proposed works consisting of (a) store, (b) calf house, (c) ancillary concrete and (d) underground precast tank is or is not development and is or is not exempted development at Island Td, Cloughjordan, Co Offaly, E35 R660.

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**AND WHEREAS** Thomas Keneally c/o Gerry Byrne, Gurtray, Portumna, Co Galway, H53 EA07 has requested a declaration on the said question from Offaly County Council;

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*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  
Executive Planner

2<sup>nd</sup> July 2025

Date



Ed Kelly  
Acting Senior Planner

2<sup>nd</sup> July 2025

Date

**Note:** The Applicant shall refer to the enclosed copy of Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001, as amended.

**Part 3, Article 6 Exempted Development — Rural - Class 6 – Agricultural Structures  
as per the Planning & Development Regulations 2001 (as amended)**

Column 1 Description of Development	Column 2 Conditions and Limitations
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