

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 25/9

NAME OF APPLICANT: Patrick and Annette Egan

ADDRESS FOR CORRESPONDENCE:

NATURE OF APPLICATION: request for declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not the replacing of 3 no. steel clad sheds with combined floor area of 46.09sqm with a single clad storage shed of 45.57sqm is or is not development, and is or is not exempted development

LOCATION OF DEVELOPMENT: Clonllyn Glebe, Belmont, Co. Offaly, R42 R298

WHEREAS a question has arisen as to whether or not replacing 3 no. steel clad sheds with a combined floor area of 46.09sqm with a single steel clad storage shed of 45.57sqm is or is not development and is or is not exempted development at Clonllyn Glebe, Belmont, Co Offaly R42 R298.

AS INDICATED on the particulars received by the Planning Authority on the 22nd January 2025.

AND WHEREAS Patrick & Annette Egan requested a declaration on the said question from Offaly County Council.

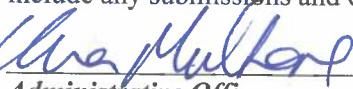
AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to:

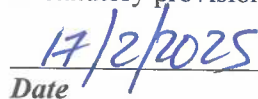
- Section 2, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended.
- Article 6 of the Planning and Development Regulations 2001 (as amended).
- Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Offaly County Council has concluded that the proposed renovation of the existing dwelling including demolition and rebuilding a rear extension 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 replacing 3 no. steel clad sheds with a combined floor area of 46.09m² with a single steel clad storage shed of 45.57m² **is development and is not exempted development** at Clonllyn Glebe, Belmont, Co Offaly R42 R298.

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.

OFFALY COUNTY COUNCIL

Planning Report - Section 5 Declaration

File Reference:	Dec. 25/09
Question:	Whether or not replacing 3 no. steel clad sheds with combined floor area of 46.09sqm with a single steel clad storage shed of 45.57sqm is or is not development and is or is not exempted development
Applicant:	Patrick & Annette Egan
Correspondence Address:	
Location:	As above

1. Proposal

The question has arisen as to whether or not replacing 3 no. steel clad sheds with combined floor area of 46.09sqm with a single steel-clad storage shed of 45.57sqm is or is not development and is or is not exempted development

2. Location

The subject site is located in the open countryside of Co. Offaly, approximately 4.5km northwest of Ferbane Town. This is a domestic property with a dwelling and 3 no. outbuildings.

3. Relevant Planning History:

17/327: Patrick & Annette Egan sought permission for an extension to existing dwelling and re-location of existing entrance – **GRANTED**.

This grant of planning permission did not extend to the existing outbuildings which were erected on site at the time.



Photo 1: Site Location.

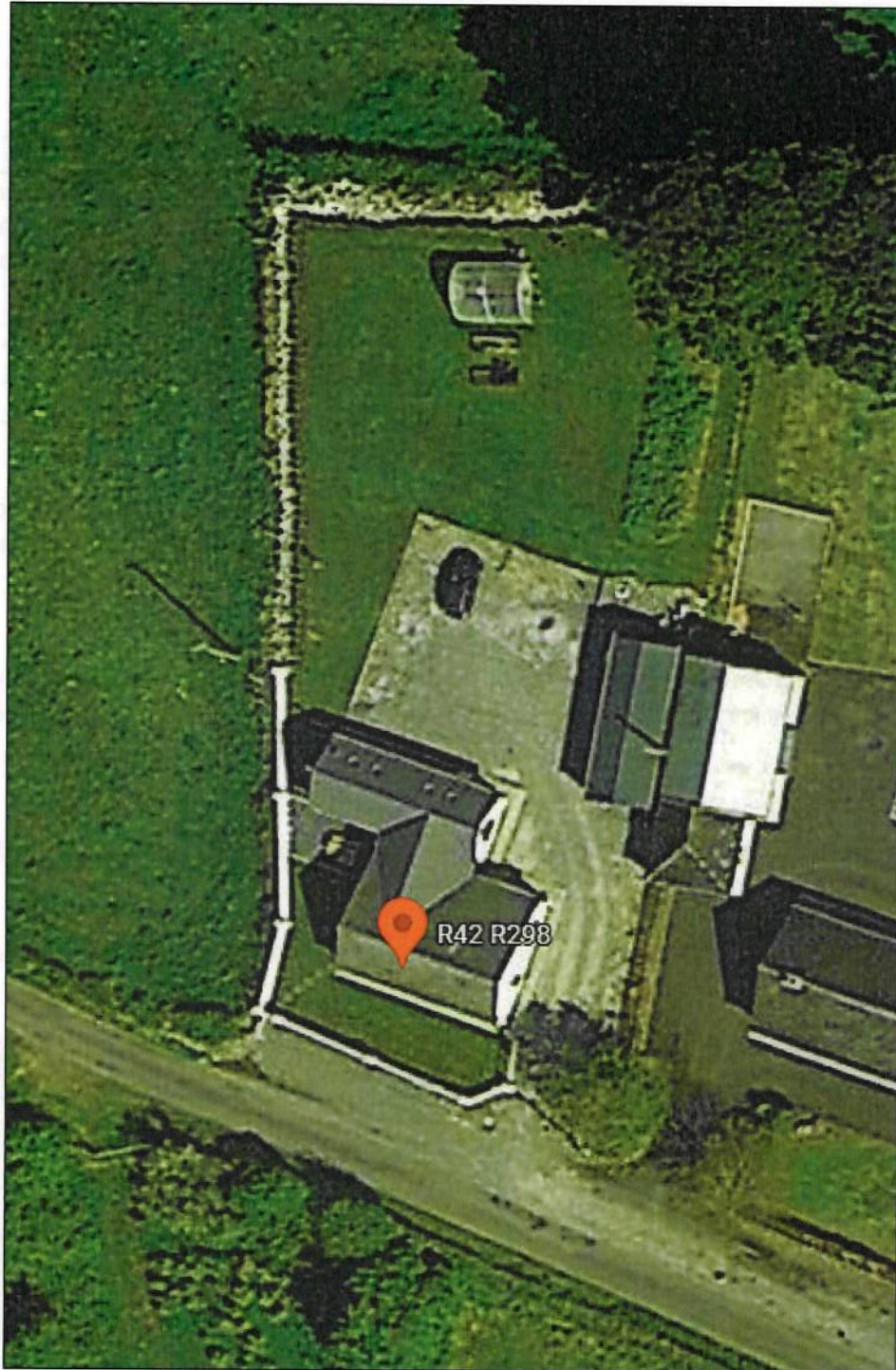


Photo 1: Subject Site.

4. 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.

Section 3 (1) Planning and Development Act 2000, as amended, defines development.

“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

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

(h) *development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure and which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.*

Section 4 (2) (a) - The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that -

(i) *by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development.*

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.*

ARTICLE 6 - PART 1 - Exempted Development — General

Column 1 Description of Development	Column 2 - Conditions and Limitations
CLASS 3 <i>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.</i>	<ol style="list-style-type: none"><i>1. No such structure shall be constructed, erected or placed forward of the front wall of a house.</i><i>2. The <u>total area</u> 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.</i><i>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</i>

	<p><i>occupants of the house to the rear or to the side of the house to less than 25 square metres.</i></p> <p>4. <i>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.</i></p> <p>5. <i>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.</i></p> <p>6. <i>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.</i></p>
--	---

5. Proposal by Applicant

As outlined above, the Applicants wish to replace the existing 46.09m² of existing outbuildings (3 no.) with 1 no. new outbuilding with a floor area of 45.57m².

6. Appropriate Assessment

A screening exercise for an appropriate assessment has been carried out and it has been concluded that the existing development is unlikely to have significant effects on any European sites. Please see attached report under Appendix A.

7. Environmental Impact Assessment Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) and therefore is not subject to EIA requirements.

8. Evaluation

Question: Whether the proposed works (as listed) to the existing dwelling are development and if so, are they exempted development?

In considering the proposed works against the definitions of 'development' and 'works' as provided in the Act, it is the view of the Planning Authority that the proposed works are deemed as development.

Question: Is this proposal considered as Exempted Development?

As outlined in Class 3 above and in summary, the construction of a garage, store, shed or other similar structure within the curtilage of a house of shall be exempted development if the area does not exceed 25m².

The Applicants wish to erect a domestic outbuilding with a floor area of 45.57m². Therefore, the proposed replacement of the existing outbuildings with the new structure is not 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 or not replacing 3 no. steel clad sheds with a combined floor area of 46.09sqm with a single steel clad storage shed of 45.57sqm is or is not development and is or is not exempted development at Clonllyn Glebe, Belmont, Co Offaly R42 R298.

AS INDICATED on the particulars received by the Planning Authority on the 22nd January 2025.

AND WHEREAS Patrick & Annette Egan 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, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended.
- (b) Article 6 of the Planning and Development Regulations 2001 (as amended).
- (c) Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Offaly County Council has concluded that the proposed renovation of the existing dwelling including demolition and rebuilding a rear extension 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:

- Replacing 3 no. steel clad sheds with a combined floor area of 46.09m² with a single steel clad storage shed of 45.57m² **is development and is not exempted development** at Clonllyn Glebe, Belmont, Co Offaly R42 R298.

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

17th February 2025

Date



Ed Kelly

17th February 2025

Date

ASEP

APPENDIX A

APPROPRIATE ASSESSMENT SCREENING REPORT FOR PLANNING APPLICATIONS



Screening is used to determine if an AA is necessary by examining:

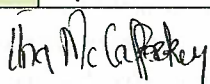
- If the plan / project is directly connected with / necessary to the management of the European site.
- If the effects will be significant on a European site in view of its conservation objectives, either alone / in combination with other plans / projects.

Planning Authority: OCC

Planning Application Ref. No: DEC 25/09

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether or not replacing 3 no. steel clad sheds with combined floor area of 46.09sqm with a single steel clad storage shed of 45.57sqm is or is not development and is or is not exempted development		
Site location:	Clonlyon Glebe, Belmont, Co Offaly R42 R298		
Site size:	Not provided	Floor Area of Proposed Development:	45.57m
Identification of nearby European Site(s):	Moyclare Bog SAC: 1.46km Ferbane Bog SAC: 2.99km Fin Lough (Offaly) SAC – 4.44km Mongan Bog SPA – 5.33km Middle Shannon Callows SPA – 6.49km		
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: X	
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
Ferbane Bog SAC – features of interest: <ul style="list-style-type: none"> Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150] Moyclare Bog SAC – features of interest: <ul style="list-style-type: none"> Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150] Middle Shannon Callows SPA – Features of interest include: <ul style="list-style-type: none"> Whooper Swan (Cygnus cygnus) [A038] Wigeon (Anas penelope) [A050] Corncrake (Crex crex) [A122] 			

<ul style="list-style-type: none"> • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Lapwing (<i>Vanellus vanellus</i>) [A142] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Wetland and Waterbirds [A999] <p>Fin Lough (Offaly) SAC – Features of interest include:</p> <ul style="list-style-type: none"> • Alkaline fens [7230] • Vertigo geyeri (Geyer's Whorl Snail) [1013] <p>Mongan Bog SPA – Features of interest include:</p> <ul style="list-style-type: none"> • Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] 	
<p>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 www.npws.ie) (ATTACH INFO.)</p>	
<p>Site Name: Ferbane Bog SAC, Site Code: 000575 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000575.pdf</p> <p>Site Name: Moyclare Bog SAC, Site Code: 000581 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000581.pdf</p> <p>Site Name: River Shannon Callows SAC, Site Code: 000216 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000216.pdf</p> <p>Site Name: Fin Lough (Offaly) SAC, Site Code: 000576 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000576.pdf</p> <p>Site Name: Mongan Bog SPA, Site Code: 004017</p> <p>Mongan Bog is a midland raised bog of medium size situated immediately east of the monastic site of Clonmacnoise, Co. Offaly, and 12 km south of Athlone. It is situated in a basin, surrounded on part of its perimeter by high ground on mineral soil. The bog has a well-developed microtopography of hummocks, pools and lawns. Species such as Ling Heather (<i>Calluna vulgaris</i>), Cross-leaved Heath (<i>Erica tetralix</i>), cottongrasses (<i>Eriophorum angustifolium</i>, <i>E. vaginatum</i>), Carnation Sedge (<i>Carex panicea</i>) and White Beak-sedge (<i>Rhynchospora alba</i>) are common. A good variety of bog mosses (<i>Sphagnum</i> spp.) and other bryophytes are found. Strips of cut-away bog, part of which is colonised by willows (<i>Salix</i> spp.) and birch (<i>Betula</i> sp.) scrub, occur along the margins of the peat dome. At the time this site was identified for Special Protection Area (SPA) designation it was being utilised by Greenland White-fronted Goose from the internationally important River Suck population. Although Greenland White-fronted Goose does not currently utilise the site, this species is regarded as a special conservation interest for this SPA. Mongan Bog is one of the raised bogs that was traditionally used as a feeding/roosting site by small numbers of the River Suck population of Greenland White-fronted Goose. These birds utilise the callows near the mouth of the Suck to Shannonbridge and as far as Clonmacnoise. The numbers of Greenland White-fronted Goose using this part of the range was always small (peak count of 26 in 1984/85) and geese have not been recorded using the site in recent years - the last record was 11 individuals in 1989/90. The cutaway area of bog provides habitat for a range of bird species, including birds of prey, thrushes, warblers and finches. A study of the birds of Mongan Bog in 1985 recorded Mallard, Snipe, Skylark and Meadow Pipit breeding on the peat dome. Mongan Bog is owned by An Taisce (the National Trust) and is a Ramsar Convention site, a Biogenetic Reserve and a Statutory Nature Reserve</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:	
<p>(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).</p>	
<p>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)</p>	
<p>Would there be...</p> <p>... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).</p>	<p>Not likely due to the location and type of development. The site is sufficient distance from the European site.</p>

... 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.	AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.		
2.	No potential for significant effects / AA is not required.		
3.	Significant effects are certain, likely or uncertain. (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:	Executive Planner	Date:	17 th February 2025