

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 20/9

NAME OF APPLICANT:  
ADDRESS

JMW FARMS (IRELAND) LTD. PLC

ADDRESS FOR CORRESPONDENCE:

C/O CLW ENVIRONMENTAL PLANNERS LTD.,  
THE MEWS,  
23 FARNHAM STREET,  
CAVAN,  
CO. CAVAN.

**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the proposed development of 1 no. shed and ancillary storage structure (for use as permitted by class 9 exempted development rural) etc. associated with the existing agricultural activity on the farm) at Derrygolan, Tullamore, Co. Offaly is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:**

DERRYGOLAN, TULLAMORE, CO. OFFALY.

**WHEREAS** a question referred to Offaly County Council on 11<sup>th</sup> of May 2020 has arisen as to whether the proposed development of 1 no. shed and ancillary storage structure (for use as permitted by class 9 exempted development rural) etc. associated with the existing agricultural activity on the farm) at Derrygolan, Tullamore, 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 & Development Act 2000 (as amended)
- (b) Article 6 and Article 9(1)(a)(viii) of the Planning & Development Regulations 2001 (as amended)
- (c) Classes 6 and 9 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 sheds, to be used for agricultural storage purposes, comes within the scope of Classes 6 and 9 of Schedule 2 of Part 3 of the Regulations and the agricultural storage sheds would comprise the alteration of an unauthorised structure and therefor, comes within the scope of Article 9(1) (a) (viii) 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 proposed development of 1 no. shed and ancillary storage structure (for use as permitted by class 9 exempted development rural) etc. associated with the existing agricultural activity on the farm) at Derrygolan, Tullamore, 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

8/6/2020

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 20-09</b>                                                                                        |
| <b>Question:</b>               | <i>Whether a Class 9 storage structure is development and if so, is or is not exempted development.</i> |
| <b>Applicant:</b>              | <i>JMW Farms (Ireland) Ltd</i>                                                                          |
| <b>Correspondence Address:</b> | <i>CLW Environmental Planners Ltd.<br/>The Mews<br/>23 Farnham Street<br/>Co. Cavan</i>                 |
| <b>Location:</b>               | <i>Derrygolan, Tullamore</i>                                                                            |

#### 1. Introduction

The question has arisen as to whether 1 no. shed and ancillary storage structure associated with existing agricultural activity on the farm is exempted development.

#### 2. Background

The subject site is on agricultural lands located approx. 6km south of Tullamore. There is a significant piggery enterprise on site, which includes staff canteen facilities, numerous housing structures.

It was also noted that there was a caravan on site, which is currently occupied (as informed by employee whom I met on site).



Plate 1: Location of Subject Site



**Photo 1: Caravan on site**



**Photo 2: Existing piggery on site**



Photo 3: Location of proposed storage units



Plate 2: Extract from permitted site layout plan ref. 13/20/9

### 3. Site History

There is a significant planning history associated with the site:

| File No               | Type       | Decision | Received Date | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------|------------|----------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">12243</a> | PERMISSION | C        | 27/02/2012    | CONSTRUCTION OF 1 NO. NEW PIG HOUSE AND FARM OFFICE / STAFF FACILITIES, AND AMENDMENT OF PERMISSION PREVIOUSLY GRANTED UNDER PLANNING PERMISSION REFERENCE PL2/12/43 BY MAKING REVISION TO THE 2 NO. APPROVED PIG HOUSES AND DEMOLISHING 5 (NOT 6 AS PREVIOUSLY PROPOSED) EXISTING PIG HOUSES, ALONG WITH ALL ANCILLARY STRUCTURES ( TO INCLUDE MEAL STORAGE BINS, STORAGE TANKS ETC.) AND ALL ASSOCIATED SITE WORKS ON THE SITE OF AN EXISTING PIG FARMING ENTERPRISE. AN ENVIRONMENTAL IMPACT STATEMENT (E.I.S.) HAS BEEN SUBMITTED WITH THIS PLANNING APPLICATION. THIS APPLICATION RELATES TO A DEVELOPMENT, WHICH IS FOR THE PURPOSES OF AN ACTIVITY REQUIRING AN INTEGRATED POLLUTION PREVENTION AND CONTROL (I.P.P.C.) LICENCE UNDER PART IV OF THE ENVIRONMENTAL PROTECTION AGENCY (LICENCING) REGULATIONS 1994 TO 2008                                                           |
| <a href="#">1243</a>  | PERMISSION | C        | 27/02/2012    | DEMOLITION OF 6 NO. EXISTING PIG HOUSES AND ANCILLARY STRUCTURES AS INDICATED ON THE PLANS SUBMITTED WITH THIS APPLICATION, AND TO CONSTRUCT 2 NO. PIG HOUSES (WITH INTEGRATED FEED PREPARATION STORE, FARM OFFICE, CHANGING AREA AND ASSOCIATED FACILITIES), TOGETHER WITH ALL ANCILLARY STRUCTURES (TO INCLUDE MEAL STORAGE BINS, RAINWATER HARVESTING TANK, STORAGE TANKS) AND ALL ASSOCIATED SITE WORKS (TO INCLUDE UPGRADED SITE ENTRANCE, PROPRIETARY MECHANICAL WASTEWATER TREATMENT SYSTEM AND PERCOLATION AREA) ON EXISTING PIG FARM. AN ENVIRONMENTAL IMPACT STATEMENT (E.I.S.) HAS BEEN SUBMITTED WITH THIS PLANNING APPLICATION. THIS APPLICATION RELATES TO A DEVELOPMENT, WHICH IS FOR THE PURPOSES OF AN ACTIVITY REQUIRING AN INTEGRATED POLLUTION PREVENTION AND CONTROL (I.P.P.C.) LICENCE UNDER PART IV OF THE ENVIRONMENTAL PROTECTION AGENCY (LICENCING) REGULATIONS |

|                       |            |   |                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------|------------|---|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                       |            |   |                         | 1994 TO 2008                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <a href="#">1366</a>  | RETENTION  | C | 18/04/2013<br>Thursday  | AND COMPLETION OF ALTERATIONS TO PLANNING PERMISSION APPROVED UNDER PLANNING REFERENCE 12/243 AND 12/43 TO INCLUDE; (A) REVISED SITE PLAN (INCLUDING REVISED LOCATIONS AND LAYOUT OF PROPOSED STRUCTURES). (B) REVISIONS TO 3 NO. PROPOSED PIG HOUSES AND OFFICE/STAFF FACILITIES. RETAIN AND COMPLETE THE RECONSTRUCTION OF 1 NO. PIG HOUSE. PERMISSION TO CONSTRUCT 2 NO. OVERGROUND MANURE STORAGE TANKS, ALONG WITH ALL ANCILLARY STRUCTURES (TO INCLUDE MEAL STORAGE BINS, STORAGE TANKS ETC.) AND ALL ASSOCIATED SITE WORKS, ON THE SITE OF AN EXISTING PIG FARMING ENTERPRISE. THIS APPLICATION RELATES TO A DEVELOPMENT, WHICH IS FOR THE PURPOSES OF AN ACTIVITY REQUIRING AN INTEGRATED POLLUTION PREVENTION AND CONTROL (I.P.P.C.) LICENCE UNDER PART IV OF THE ENVIRONMENTAL PROTECTION AGENCY (LICENSING) REGULATIONS 1994 TO 2012 |
| <a href="#">77567</a> |            |   |                         | NO DETAILS AVAILABLE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <a href="#">87148</a> | PERMISSION | C | 15/04/1987<br>Wednesday | CONSTRUCTION OF PIG FATTENING UNIT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <a href="#">87277</a> | PERMISSION | C | 07/07/1987<br>Tuesday   | RETENTION OF PIG HOUSING & MOBILE HOME                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <a href="#">88361</a> | PERMISSION | C | 03/01/1989<br>Tuesday   | EXTENSION TO EXISTING PIG BUILDINGS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <a href="#">90209</a> | PERMISSION | C | 18/05/1990<br>Friday    | EXTENSION TO EXISTING PIG FATTENING UNIT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <a href="#">90296</a> | PERMISSION | C | 19/07/1990<br>Thursday  | ERECTION OF WEANER ACCOMMODATION, PREFAB FIRST STAGE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

#### 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.*

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

*“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and— (a) where the context so admits, includes the land on, in or under which the structure is situate,*

*“unauthorised structure” means a structure other than— (a) a structure which was in existence on 1 October 1964, or (b) a structure, the construction, erection or making of which was the subject of a permission for development granted under Part IV of the Act of 1963 or deemed to be such under section 92 of that Act or under section 34 of this Act, being a permission which has not been revoked, or which exists as a result of the carrying out of exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act);*

**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 – Restrictions on exemptions

*9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act— (a) if the carrying out of such development would—*

*(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*

*(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

*(iii) endanger public safety by reason of traffic hazard or obstruction of road users,*

*(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

*(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or*

*local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

*(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.*

***(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,***

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

*(xi) obstruct any public right of way,*

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area, (b) in an area to which a special amenity area order relates, if such development would be development:— (i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or (ii) consisting of the use of a structure*

or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or (iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited, (c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive, (d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.

### **Class 9 Agricultural Structures**

In this instance, the relevant exempted development classes in Part 3 of Schedule 2 (Rural Development) is Class 9 – Agricultural Structures.

*‘Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres’.*

The associated conditions and limitations are discussed below.

### **5. Proposal by Applicants**

The Applicant wishes to ascertain whether an agricultural shed and ancillary storage unit under class 9 is exempted development.

The shed comprises an area of 26.24sqm, and has a flue of 7m.

The silo comprises an area of 9sqm with a height of 10m.

The proposed development is considered against the conditions and limitations of Class 9:

*1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*

The proposed structures will be used for agricultural purposes.

*2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*

The applicant states that storage sheds or those structures falling under Class 9 are significantly below the 900sqm threshold. While this would appear to be the case having inspected the site and reviewed the three most recent planning applications associated with the site, further information regarding miscellaneous sheds on site would be needed.

*3. No such structure shall be situated within 10 metres of any public road.*

The proposed structures are in excess of 10m from the public road.

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

Not applicable – no height restriction as the structures are in excess of 100m from the public road.

5. No such structure shall be situated 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.

The nearest residence is the unauthorised caravan on site, which is in excess of 100m from the proposed structures.

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

External finishes are proposed to be painted.

#### **6. Appropriate Assessment Screening**

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

#### **7. Evaluation**

##### ***Question: Is the following works considered as 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.

##### ***Question: Is the following works proposal considered as Exempted Development?***

A review of the following planning history applications were undertaken: 13/66, 12/243 and 12/43. There are no conditions pertaining to these permissions which would remove exemption rights (article 9(1)(a)9i) refers).

Ordinarily, it would appear that works may otherwise be exempted development in this instance (subject to clarification on existing class 9 storage structures on site, which according to the agent "are significantly less than remaining threshold"). Regard, however, must be had to the unauthorised caravan on site.

Section 2 (1) of the Act states that the restrictions on exemption apply as per Article 9 (1) (viii), which refers that: Development to which article 6 relates shall not be exempted development for the purposes of the Act— (a) if the carrying out of such development would— (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

Having regard to the definition of 'structure' which means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and— (a) where the context so admits, includes the land on, in or under which the structure is situate.

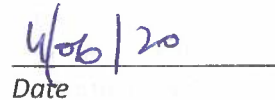
In this instance, therefore, it is concluded that the structure, comprises the land which is the site comprising the totality of agricultural operations and the subject of recent planning applications. The existence of the caravan on site, presently occupied constitutes unauthorised development, which comprises the alteration of an unauthorised structure and, therefore comes within the scope of Article 9 (1) (a) (viii) of the Planning and Development Regulations, 2001.

#### 8. Recommendation

It is recommended that the agent is advised that the development as described in the application is development and is not exempted development.



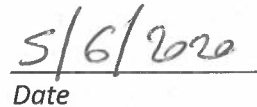
*Alaine Clarke*  
*Executive Planner*



*Date*



*Carroll Melia*  
*(A/Senior Executive Planner)*



*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 1 no. shed and ancillary storage structure associated with existing agricultural activity at Derrygolan, Tullamore, Co. Offaly is or is not exempted development;

**AS INDICATED** on the plans and particulars received by the Planning Authority on 11<sup>th</sup> May 2020;

**AND WHEREAS** JMW Farms (Ireland) Ltd 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 and 9 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 sheds, to be used for agricultural storage purposes, comes within the scope of Classes 6 and 9 of Schedule 2 of Part 3 of the Regulations and the agricultural storage sheds would comprise the alteration of an unauthorised structure and, therefore, comes within the scope of Article 9 (1) (a) (viii) 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 agricultural storage sheds at Derrygolan, Tullamore, Co. Offaly is development and is not 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.

# 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 Ref. No.: Section 5 DEC 20/9

| (A) DESCRIPTION OF PROJECT AND LOCAL SITE:                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                     |       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------|
| Proposed development:                                                                                                                                                                                                                                                                                                         | Agriculture storage sheds                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                     |       |
| Site location:                                                                                                                                                                                                                                                                                                                | Derrygolan and Clonagh East                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                     |       |
| Entire site                                                                                                                                                                                                                                                                                                                   | 8.91 ha.s.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Floor Area of Proposed Development: | 35sqm |
| Identification of nearby European Site(s):                                                                                                                                                                                                                                                                                    | 2000 site(s): SAC 000571– Charleville Wood SAC                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                     |       |
| Distance to European Site(s):                                                                                                                                                                                                                                                                                                 | 1.3 km                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                     |       |
| 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 EIS?                                                                                                                                                                                                                                                                                     | Yes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                     |       |
| (B) IDENTIFICATION OF THE RELEVANT European SITE(S):                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                     |       |
| The reasons for the designation of the European site:                                                                                                                                                                                                                                                                         | Charleville Wood is considered to be one of the very few ancient woodlands remaining in Ireland, with some parts undisturbed for at least 200 years. 'Old Oak woodland is a habitat listed on Annex I of the EU Habitats Directive, while the rare snail species, <i>Vertigomoulin siana</i> , is listed on Annex II of this directive. The wetland areas, with their associated bird populations, the rare insect and Myxomycete species contribute further to the conservation significance of the site. |                                     |       |
| 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 Natura 2000 site synopses and, if applicable, a Conservation Management Plan; all available on <a href="http://www.npws.ie">www.npws.ie</a> ) (ATTACH INFO.) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                     |       |
| PLEASE SEE SITE SYNOPSIS SHEET ATTACHED                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                     |       |

**(C) NPWS ADVICE:**

|                                       |               |
|---------------------------------------|---------------|
| Advice received from NPWS over phone: | No Objections |
|---------------------------------------|---------------|

**(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)

**Would there be...**

... 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.  
Noted that SI 60 of 2010 will ensure manure will not effect water quality or European sites

... 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  
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 *in-combination effects* 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 NIS 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 European sites from the proposed development. |         |
| Name:                                              | Alaine Clarke |                                                                                              |         |
| Position:                                          | Exec. Planner | Date:                                                                                        | 4/28/20 |