



An
Bord
Pleanála

Inspector's Report ABP-315826-23

Question

Whether an agricultural storage shed is or is not development and is or is not exempted development.

Location

Robin Hill, Stackallen, Slane, Co. Meath

Declaration

Planning Authority

Meath County Council

Planning Authority Reg. Ref.

LB/S52251

Applicant for Declaration

Edward Reilly.

Planning Authority Decision

Is not exempted development

Referral

Referred by

Edward Reilly.

Owner/ Occupier

Edward Reilly.

Observer(s)

None.

Date of Site Inspection

24th April 2024

Inspector

Lucy Roche

1.0 Site Location and Description

- 1.1. The subject site is at Robin Hill in the townland of Stackallen, in Co. Meath, c5km west of Slane and 5.5km northeast of Navan. The site is served by and accessed from the R163 regional road via an existing agricultural entrance to the north.
- 1.2. The site comprises an agricultural greenfield of approx. 0.7ha. It slopes gradually downwards in a southern direction, away from the public road, it is rectangular in shape and is bounded by mix of mature trees and hedges to the west, south and east. The northern, roadside boundary is delineated by a timber post and wire fence that is set back from the R163 by a grass verge.
- 1.3. There are no existing structures on site. There are one-off dwellings in the vicinity including two on the neighbouring lands to the east, both of which are visible from within the confines of the site. Stackallen National School is located c300m to the east. The site lies within a 50km speed limit zone.

2.0 The Question

- 2.1. The question has arisen as to whether an agricultural storage shed at Robin Hill, Stackallen, Slane, Co. Meath is or is not development and is or is not exempted development.

3.0 Planning Authority Declaration

3.1. Declaration

- 3.1.1. On the 20th day of January 2023, a declaration was issued by Meath County Council stating that:

The “agricultural storage shed” at Robin Hill, Stackallen, Slane, Co. Meath is not exempt from the requirement to obtain planning permission, as based on the information provided, it has not been demonstrated that the development would not ‘endanger public safety by reason of traffic hazard or obstruction of road users’ as per Article 9(1)(a)(iii) of the Planning and Development Regulations 2001 as amended.

The decision was based on the plans and particulars submitted to the planning authority on the 21st of December 2022.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (January 2023) includes the following considerations:

- The Agricultural storage shed would come within the conditions and limitations of Schedule 2, Part 3, Class 9 (Exempted Development – Rural) of the Planning and Development Regulations 2001 (as amended).
- However, following consultation with the Transportation section it is considered the existing entrance onto the adjoining Regional Road (R163) is substandard and would not provide the required 160 metre (to the rear side edge of the public road) by 3.0 (set-back) visibility splays as required by TII standards and as such it is considered the proposed works with extra comings and goings on to the site would endanger public safety by reason of traffic hazard or obstruction to road users.
- The report concludes that the proposed development would constitute development which is not exempted development. A decision was made by the planning authority on this basis.

3.2.2. Other Technical Reports

None

4.0 Planning History

There is no relevant planning history pertaining to the subject site.

5.0 Policy Context

5.1. Development Plan

Operative Plan: Meath County Development Plan 2021- 2027

Zoning: RA - Community Infrastructure. The objective for this zone is to protect and promote in a balanced way, the development of agriculture, forestry and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage.

Rural Area Type: Low Development Pressure Area

Landscape: Rathkenny Hills Landscape Character Area with a very high value and high sensitivity to development

5.2. Natural Heritage Designations

The site is not on or within proximity to any designated site. The River Boyne and River Blackwater SPA (site code 004232) and River Boyne and River Blackwater SPA (site code: 002299) are approximately 3km to the southeast.

6.0 The Referral

6.1. Referrer's Case

6.1.1. The referral was submitted by the landowner, Edward Reilly and is accompanied by plans and documentation in support of the proposal. These include:

- Letter from DOB Surveys Ltd, Chartered Engineers
- Maps indicating sightlines distances.
- Extract from NRA – Design Manual for Roads and Bridges (2009) – Volume 6, Section 2, Part 6 – Geometric Design of Major/Minor Priority Junctions and Vehicular Access to National Roads.
- Images of similar sheds with painted metal sheeting

6.1.2. The main points raised in the referral submission can be summarised as follows: -

- The lands in question are located in the rural townland of Stackallen, Co. Meath. They are accessed from the R163 via an existing 7m wide agricultural gate. The lands form part of a larger agricultural landholding which is within the referrer's ownership, and which lies to the north of the referral site, in the townland of Farganstown. All lands are currently used for silage cultivation.
- The existing entrance has been in situ since the 1920's and is a pre-1963 development. The land was acquired by the applicant in the 1980's with the current access in position and fully operational.
- The primary use of the field is silage, and it is intended that it remain as such.
- The site is within a 50km speed limit zone where a stopping sight distance of 70m is required. Sightlines distances in excess of 120m are available to the east of the entrance and 160 meters to the west.
- There is no roadside hedging to the west along the roadside boundary and hedging to the east is sparse and maintained at a low level.
- The lands are accessed by agricultural vehicles which have a greater visibility (than standard vehicles) due to the elevated seat position.
- There will be no intensification of the existing entrance from its current level of use. The site is access infrequently (1-2 per month) this will not change as a result of the shed being present it merely means that the tools required for the maintenance and cultivation of the lands rather than being transported in each time.
- The Council failed to outline the nature of the traffic hazard that would arise in relation to the entrance and did not provide any basis upon which this determination was arrived.

6.2. Planning Authority Response

The Planning Authority's response to the referral is set out in correspondence received on the 10th of March 2023 and comprises the following:

- The correspondence and content of the first party appeal has been noted, that all the matters raised therein have previously been addressed in the

Executive Planners report and the Planning Authority wishes to rely on the content of same in response to the First Party Appeal.

- Accordingly, the Planning Authority requests that An Bord Pleanála uphold the decision of the Planning Authority to refuse permission in this case.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

7.1.1. Section 2(1) Interpretation – defines the terms used within the Act including:

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and “agricultural” shall be construed accordingly;

“Public road” has the same meaning as in the Roads Act, 1993.

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal ...

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under 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,”

Section 3(1) of the Act states the following in respect of ‘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 (1) sets out various forms and circumstances in which development is exempted development for the purposes of the Act, including.

(a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

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,

7.2. Planning and Development Regulations, 2001

Article 6(3) of the Planning and Development Regulations, 2001 (as amended) states:

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 consisting 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(1) of the regulations states –

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

Schedule 2, Part 3- (Exempted Development - Rural), Class 9. The relevant section of the Regulations which is referred to herein is Class 9. Class 9 and its conditions and limitations are as follows:

<i>Column 1:</i> <i>Description of Development</i>	<i>Column 2:</i> <i>Conditions and Limitations</i>
CLASS 9 Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being 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.	<ol style="list-style-type: none">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.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.3. No such structure shall be situated within 10 metres of any public road.4. No such structure within 100 metres of any public road shall exceed 8 metres in height.5. No such structure shall be situated within 100 metres of any house

	<p>(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.</p> <p>6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</p>
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8.0 Precedent Cases

8.1.1. The following precedent referrals are of note:

ABP-311137-21 (2022) This case is cited in the referral submission. The question here referred to whether the construction of an agricultural structure, for the storage of agricultural machinery, animal foodstuffs and bedding and for the housing of horses and/or sheep, at Ballyreagh, Enniskerry, Co. Wicklow, is or is not development or is or is not exempted development. The Board Decided that the development as described for not come within the scope of exempt agricultural structures and that there is no provision in the legislation to exempt the agricultural structure as described. The Board concluded that the structure is development but is not exempted development.

ABP-309911-21 (2022) The question here referred to whether the construction of a farm storage shed at Ardmore, Sneem, Co. Kerry, is or is not development or is or is not exempted development. The Board Decided that while the structure would come within the scope of exemption provided under Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), the proposed development would endanger public safety by reason of traffic hazard or obstruction

of road users and would therefore be restricted by the terms of Article 9(1)(a)(iii) of those Regulations.

ABP-300773-18 (2018) The question here referred to whether the construction of an agricultural barn at Rosdooaun, Newport, County Mayo is or is not development or is or is not exempted development. The Board decided that under Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), the works were exempted development.

9.0 **Assessment**

- 9.1. The applicant proposes to construct an agricultural storage shed, with a stated GFA of 150sqm. As detailed on the submitted drawings, the dimensions of the structure in question are 7.5m (W) x 20m (L) and 7m (H). The applicant states that the storage shed is to be used solely for the housing of grass cutting equipment and other tools relating to the cultivation of silage and the maintenance of hedging. The applicant considers Class 9 of the regulations to be relevant to this case.
- 9.2. It should be stated at the outset that the purpose of this referral is not to determine the acceptability or otherwise of the agricultural storage shed in respect to the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development.
- 9.3. In assessing the merits of the case, I have reviewed previous relevant declarations made by the Board.
- 9.4. **Is or is not development:**
 - 9.4.1. The construction of the agricultural storage shed is considered to constitute works under Section 2(1) of the Planning and Development Act, 2000 (as amended) and is, therefore, development as per Section 3(1) of the Act. This matter is not disputed by any of the parties.

9.5. **Is or is not exempted development:**

- 9.5.1. Development can be exempted from the requirement for planning permission by virtue of either Section 4 of the Planning and Development Act, 2000 (as amended) (the Act), or Article 6(1) and 9(1) of the planning and Development Regulations 2001 (as amended) (the Regulations).
- 9.5.2. Section 4(1) of the Act sets out provisions in relation to exempted development. Subsection (a) provides for exemption for the following –
- 4(1)(a) – development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used.
- 9.5.3. The above exemption relates to the use of land, or a structure, for agricultural purposes, and not to the construction of such a structure. Therefore, the exemption under Section 4(1)9a) of the Act cannot be relied upon in this instance.
- 9.5.4. Article 6(3) of the Regulations provides exemptions for various of classes of development in rural areas, subject to compliance with specified conditions and limitations. Classes 6-9 inclusive of Part 3, Schedule 2 of the Regulations relate to agricultural structures. Classes 6 and 7 relate to structures for the housing of animals. Class 8 provides an exemption for works consisting of the provision of roofless cubicles, open loose yards, self-feed silo or silage areas, feeding aprons, assembly yards, milking parlours, or structures for the making or storage of silage or any other structures of a similar character or description. Class 9 provides an exemption for 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 the Schedule, and having a gross floor space not exceeding 300 square metres. The storage shed, with a stated gross floor area of 150sqm, could be considered to fall within Class 9.
- 9.5.5. Class 9 is subject to six condition / limitations, which are considered in the following table:

CLASS 9

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being 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.

Conditions / Limitations	Assessment
<p>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.</p>	<p>In accordance with the referral documentation, the proposed structure is to be used for the purpose of agriculture, more specifically for the housing of grass cutting equipment and other tools relating to the cultivation of silage and the maintenance of hedging.</p> <p>The definition of agriculture, as per the Act, refers to the activity on the lands and, in my opinion, any such buildings permitted for agricultural use must be linked to an agricultural activity or purpose - it cannot be assumed that because a shed is situated within a rural area that is intrinsically linked to an agricultural activity, as defined above in the Act.</p> <p>In accordance with the details submitted, the referral site forms part of a larger landholding, that is used for silage cultivation. Details of the size and exact location of the referrers additional lands have not been provided. Notwithstanding, I am satisfied based on the information available that it is the applicant's intention to utilise the proposed shed to support this activity and for the maintenance of the lands. I have no evidence before me to believe otherwise and I note any deviation from the use would be a matter for the planning authority. I am therefore of the opinion</p>

	that condition/limitation 1 of Class 9 is complied with.
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.	<p>The proposed structure has a stated gross floor area of 150sqm. The structure is not proposed within an existing farmyard complex and there are no other such structures on the referral site.</p> <p>As detailed on the submitted drawings, there are no other such structures within 100m of the proposed storage shed. However, as detailed on the drawings and as observed on site, there are agricultural type structures, c50m west of the referral site. These structures are not of a scale that if taken together with the proposed structure would exceed 900 square metres gross floor space.</p> <p>I am of the view that condition/limitation 2 of Class 9 is complied with</p>
3. No such structure shall be situated within 10 metres of any public road.	The structure is not within 10m of any public road, therefore, condition/limitation 3 of Class 9 is complied with
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.	<p>As detailed on the submitted drawings the proposed structure is not within 100m of any public road, notwithstanding the structure does not exceed 8m in height.</p> <p>I am of the view that condition/limitation 4 of Class 9 is complied with</p>
5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or	As detailed on the submitted drawings the proposed structure is not situated within 100 metres of any house or other residential building or school, hospital, church, or building used for

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.	public assembly, therefore condition/limitation 5 of Class 9 is complied with.
6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.	In accordance with the details provided, external finishes will comprise painted sheeting. Therefore, condition/limitation 6 of Class 9 is complied with

9.5.6. Having regard to the foregoing, I am satisfied that the structure, the subject of this referral, complies with the provisions of Schedule 2, Part 3, Class 9 Conditions 1 – 6. The Board will note that my conclusion in this regard accord with that of the planning authority.

9.6. Restrictions on exempted development

9.6.1. The Planning and Development Regulations, 2001 (as amended), state under Article 9 (1) Restrictions on Exemption, 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(iii) endanger public safety by reason of traffic hazard or obstruction of road users.

9.6.2. The planning authority, following verbal consultation with the Transport Section of Meath County Council, determined that the existing entrance serving the site was substandard and would not provide the required 160metre (to the nearside edge of the public road x 3.0 set-back) visibility splays as per T.I.I standards. As such, they considered that the proposed works, with extra coming and goings into the site would 'endanger public safety by reason of traffic hazard or obstruction of road users', they deemed the development *de-exempt* on these grounds.

- 9.6.3. The referral site is accessed off the R163 regional road via an existing agricultural gate. The R163, at the location of the existing entrance, comprises a relatively straight stretch of road, that is bounded on both sides by grass verge and has a solid white line at its centre. The entrance is within a 50km speed limit zone. Visibility at the entrance is good in both directions. The documentation submitted in support of the application, including the letter and maps of the Chartered Surveyor, indicate that sightline distances in excess of 120m are available in both directions from a 2.4m setback, thereby exceeding the road geometry standards as outlined in the NRA document Design Manual for Roads and Bridges (DMRB), specifically Section TD 41-42/09. I refer the Board to Section 7 of the document, in particular paragraph 7.7c, which allows for a relaxation in the setback from 3.0m to 2.4m for simple junctions in stop-controlled situations and to Table 7.1, which provides that stopping sight distances of 120m are acceptable on roads with a design speed of 70kmh. An extract from Section 7, Geometric Design Features for Single Carriage Way Roads, is included in referral.
- 9.6.4. The Referrer states that the site is accessed infrequently, c1-2 times per month, and that this will not change as a result of the shed being present - as it merely means that the tools required for the maintenance and cultivation of the lands are on the lands rather than being transported in each time. It is the position of the Referrer that there will be no material change to the current situation and given the nature of the present and future use, there is no argument of materiality in terms of any increase in intensity of use of the lands and associated access.
- 9.6.5. I have reviewed all documentation on file and inspected the site. Having regard to the site context, the scale and intended use of the subject building for agricultural storage purposes, the location of the entrance within a 50km speed limit zone, the alignment of the road, and level of visibility at both entrances, I do not consider that the carrying out of such development would endanger public safety by reason of traffic hazard or obstruction of road users.

9.7. Screening for Appropriate Assessment

- 9.8. The referral site is not on or within proximity to any designated site. The site is located approximately 3km to the northwest of the River Boyne and River Blackwater SPA (site code 004232) and the River Boyne and River Blackwater SAC (site code:

002299). There is no hydrological connection between the referral and these European sites and the N51 lies between them.

9.9. The agricultural storage shed, the subject of this referral, is for the purpose of storage of grass cutting equipment, and other tools relating to the cultivation of silage and the maintenance of hedging. No effluent disposal facilities are proposed. Having regard to the nature and scale of the development, together with the separation and hydrological distances from the European site, it is considered that no appropriate assessment issues arise. It is considered that the development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site. Appropriate Assessment is not therefore required, and the provisions of Section 4(4) of the Planning and Development Act 2000 (as amended) are not relevant.

9.10. **Screening for Environmental Impact Assessment**

9.10.1. Projects which are likely to have significant effects on the environment are identified in Annex I and Annex II of the EIA Directive, which have been transposed into Irish legislation by Part I and Part II, Schedule 5 of the Planning and Development Regulations 2001 (as amended). Agricultural sheds or storage sheds are not of a Class of development listed under Part 1 or 2 (Schedule 5) of the Planning and Development Regulations 2001. As such, Environmental Impact Assessment does not apply in this case. Thus, the provisions of Section 4(4) of the Planning and Development Act 2000 (as amended) are not relevant.

10.0 **Recommendation**

10.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the construction of an agricultural storage shed at Robin Hill, Stackallen, Slane, Co. Meath is or is not development or is or is not exempted development:

AND WHEREAS Edward Reilly of Byrne's Field, Farganstown, Slane, Co. Meath requested a declaration on this question from Meath County Council and the Council issued a declaration on the 20th day of January, 2023 stating that the matter was development and was not exempted development:

AND WHEREAS Edward Reilly referred this declaration for review to An Bord Pleanála on the 15th day of February 2023:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) Article 6(3) and article 9(1)(a)(iii) of the Planning and Development Regulations, 2001, as amended,
- (e) Part 3 of Schedule 2, Class 9 to the Planning and Development Regulations, 2001, as amended,
- (f) The nature and extent of the works.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The works constitute development, being works which come within the scope of Section 3(1) of the Planning and Development Act, 2000 (as amended),
- (b) The construction of the agricultural structure comes within the scope of Class 9, Part 3 of Schedule 2, of the Planning and Development Regulations, 2001, as amended.

- (c) The construction of the agricultural structure would not endanger public safety by reason of traffic hazard or obstruction of road users,
- (d) The construction of the agricultural structure and its associated works would not likely have a significant effect on the integrity of any European Site:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the agricultural storage shed is development and is exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Lucy Roche
Planning Inspector

29th April 2024