



**GREEN DESIGN BUILD**  
ENVIRONMENT ARCHITECTURE CONSTRUCTION

GREEN DESIGN BUILD 142 LEESON STREET UPPER DUBLIN 4  
Telephone-01 232 5917 Mobile-087 7686428 E-mail - info@greendesignbuild.ie

Ref: 17 U107

26th February 2019

An Bord Pleanala,  
64 Marborough Street,  
Rotunda,  
Dublin 1

**Planning Section 5 Ref:** 17/U107 655 2018/58  
**Planning Applicant:** Fergus Neilon  
**Development Address:** Coolfore, Monasterboice, County Louth.  
**Planning Authority:** Louth County Council

<b>AN BORD PLEANALA</b>	
LDG-	013720-19.
ABP-	
26 FEB 2019	
Fee: €	220 Type: <u>chogwe</u>
Time:	17:30 By: <u>hand.</u>

**Planning Enforcement**

Re : Agricultural Shed & Site boundaries, Coolfore, Monasterboice, Co Louth  
for Mr. Fergus Neilon

Dear Sir or Madame.

We are applying, on behalf of our client, the decision of Louth County Council to refuse the above development, and enclose the following documents:

- Planning cover letter & the planning decision to refuse a Section 5 exemption.
- drawing with floor plans and elevations (1 copy),
- site location map (1 copy),
- site layout map (1 copy),
- completed application form,
- photos of the structure,
- Extract from Exempted Development Rural -SI 600/2001,
- Letter from owner of adjoining house planning ref 15/456 outlining boundary agreement.
- Revised Site layout map showing agricultural use shed and revised boundaries of house.
- An Bord Pleanala inspectors report ref 301570 with underlined sections.
- Payment for the sum of €220.00

We had decided to make another Section 5 application here mainly because of the An Bord Inspectors report on their appeal conclusions reference 301570. The inspector indicated that he believes the shed to be exempt and the fact that there are no site boundaries in place makes it clear that this shed is agricultural. This was overruled by the Bord's final decision but we are close to finalisation here. We have decided to include a letter from the house applicant agreeing to revise the site boundaries of the house site so that the Agri-shed is completely within the field and therefore agricultural without question. The farmer needs this shed for mainly the storage of farm machinery and equipment as covered under the exemption regulations. The boundaries can be moved slightly so this can happen as it is a very large site of 10.7 Acres and this small revision could be considered exempt from planning. We ask the council to consider this approach as a resolution to this shed in context.

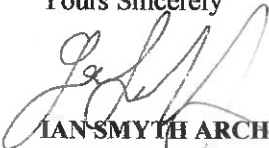


Please find attached our application for enclosed agricultural Shed and revised house boundaries. Our Client Olivia Smyth, Coolfore, Monasterboice, Co. Louth received a warning letter (ref:17U107) about a shed/store on her lands. This has now been revised so it is not the case. Please note that it is the farmer Fergus Neilon who built the shed and it does not relate to the planning application granted (Ref: 15/456) and was never meant to relate to this building nearby. All future correspondence should be addressed to Mr. Fergus Neilon.

The Shed complies with Exempted Development Guidelines for Rural Agricultural structures under Article 6, Part 3, Class 9, of S.I. no 600/2001 Planning and Development Regulations 2001. See attached extract from Regulations for your information. Each Section of the regulation are complied with and this is outlined on the drawings included.

I hope the above and enclosed information is acceptable to the Bord and provides for a favourable decision in due course. We would rather resolve this here than go through the expensive process of a retention planning application. Access to the existing buildings and site can be arranged by calling Mr. Fergus Neilon at (087) 2353988. Please contact the undersigned should you have any queries on the enclosed. We look forward to hearing from you.

Yours Sincerely



**IAN SMYTH ARCHITECT**  
**GREEN DESIGN BUILD**

B.Arch.Sc.Dip.Arch. M.R.I.A.I.





**GREEN DESIGN BUILD**  
ENVIRONMENT ARCHITECTURE CONSTRUCTION

**GREEN DESIGN BUILD 142 LEESON STREET UPPER DUBLIN 4**  
Telephone-01 232 5917 Mobile-087 7686428 E-mail - info@greendesignbuild.ie

Ref: 17 U107

8th January 2019

Planning Department  
Louth County Council,  
Town Hall,  
Crowe Street,  
Dundalk,  
County Louth,  
A91 W20C

**Planning Enforcement**

Re : Agricultural Shed & Site boundaries, Coolfore, Monasterboice, Co Louth  
for Mr. Fergus Neilon

Dear Sir or Madame.

We are applying, on behalf of our client, for Declaration under Section for the above development, and enclose the following documents:

- drawing with floor plans and elevations (1 copy),
- site location map (1 copy),
- site layout map (1 copy),
- completed application form,
- photos of the structure,
- Extract from Exempted Development Rural –SI 600/2001,
- Letter from owner of adjoining house planning ref 15/456 outlining boundary agreement.
- Revised Site layout map showing agricultural use shed and revised boundaries of house.
- An Bord Pleanala inspectors report ref 301570
- Payment for the sum of €80.00

We have decided to make another Section 5 application here mainly because of the An Bord Inspectors report on their appeal conclusions reference 301570. The inspector indicated that he believes the shed to be exempt and the fact that there are no site boundaries in place makes it clear that this shed is agricultural. This was overruled by the Bord's final decision but we are close to finalisation here. We have decided to include a letter from the house applicant agreeing to revise the site boundaries of the house site so that the Agri-shed is completely within the field and therefore agricultural without question. The farmer needs this shed for mainly the storage of farm machinery and equipment as covered under the exemption regulations. The boundaries can be moved slightly so this can happen as it is a very large site of 10.7 Acres and this small revision could be considered exempt from planning. We ask the council to consider this approach as a resolution to this shed in context.

Please find attached our application for enclosed agricultural Shed and revised house boundaries. Our Client Olivia Smyth, Coolfore, Monasterboice, Co. Louth received a warning letter (ref:17U107) about a shed/store on her lands. This has now been revised so it is not the case. Please note that it is the farmer Fergus Neilon who built the shed and it does not relate to the planning application granted (Ref: 15/456) and was never meant to relate to this building nearby. All future correspondence should be addressed to Mr. Fergus Neilon.



The Shed complies with Exempted Development Guidelines for Rural Agricultural structures under Article 6, Part 3, Class 9, of S.I. no 600/2001 Planning and Development Regulations 2001. See attached extract from Regulations for your information. Each Section of the regulation are complied with and this is outlined on the drawings included.

I hope the above and enclosed information is acceptable to the council and provides for a favourable decision in due course. Access to the existing buildings and site can be arranged by calling Mr. Fergus Neilon at (087) 2353988. Please contact the undersigned should you have any queries on the enclosed. We look forward to hearing from you.

Yours Sincerely



**IAN SMYTH ARCHITECT**  
**GREEN DESIGN BUILD**

B.Arch.Sc.Dip.Arch. M.R.I.A.I.

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Comhairle Contae Lú  
Louth County Council

Mr. Fergus Neilon,  
c/o Ian Smyth,  
Green Design Build,  
142 Upper Leeson Street,  
Dublin 4.

31<sup>st</sup> January, 2019.

**RE: Ref. S5 2018/58**

**Re: Application for Declaration of "Exempted Development" Part 1, Section 5, Planning & Development Act 2000 (as amended) for Portal frame shed for agricultural usage, 5.07m in height. Site boundary revisions. Exempted development under agricultural structures, Article 6, Part 3, Class 9. S.I. No. 600/2001 Planning and Development Regulations 2001 (as amended) is not 'Development' within the meaning of the Planning & Development Act, 2000 (as amended).**

Dear Mr. Neilon,

I wish to acknowledge receipt of your application received on 10<sup>th</sup> January, 2019 in relation to the above. Having assessed all information and enclosures received with the application, the Planning Authority wishes to advise as follows:-

**Recommendation: I hereby recommend that a Declaration of Exemption be Refused for the development described above, for the reason(s) set out hereunder:-**

**WHEREAS** a question has arisen as to whether the following development:-

Portal frame shed for agricultural usage, 5.07m in height. Site boundary revisions. Exempted development under agricultural structures, Article 6, Part 3, Class 9. S.I. No. 600/2001 Planning and Development Regulations 2001 (as amended)

**AND WHEREAS** Louth County Council in consideration of this question has had regard particularly to:-

- (a) The shed is not part of any farmyard complex and indeed is located within the curtilage of a dwelling house approved under 15/456 and constitutes works and a use which falls within the scope of section 2(1) of the Planning and Development Act, 2000 (as amended).

Comhairle Contae Lú  
Halla an Bhaile  
Sráid Crowe  
Dún Dealgan  
Contae Lú  
A91 W20C

Louth County Council  
Town Hall  
Crowe Street  
Dundalk  
County Louth  
A91 W20C

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T + 353 42 9335457  
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E info@louthcoco.ie  
w www.louthcoco.ie

Cuirfear fáilte roimh chomhfhreagras Gaeilge - Correspondence in Irish is welcome

**In Summary**

**A Declaration of Exemption is hereby REFUSED for Portal frame shed for agricultural usage, 5.07m in height. Site boundary revisions. Exempted development under agricultural structures, Article 6, Part 3, Class 9. S.I. No. 600/2001 Planning and Development Regulations 2001 (as amended)**

**This decision may be referred by you to An Bord Pleanála for review within 4 weeks of the date of this letter subject to the payment of the appropriate fee.**

Trusting that all meets with your understanding.

Yours faithfully,

*Celine Breen*

**Celine Breen  
Planning Section.**

# Louth County Council

Town Hall, Crowe Street, Dundalk, County Louth A91 W20C

## Application For Declaration on Development and Exempted Development Under Part 1, Section 5 of the Planning and Development Act 2000 (as amended)

**1. Name and address of Applicant:**

Fergus Neilon - Coolfore, Monasterboice, Co. Louth

Phone Number 0872353988 Fax No: E-Mail fergusneilon@hotmail.com

**2. Name and address of Agent (if any)**

Ian Smyth - Green Design Build, 142 Upper Leeson Street, Dublin 4

Phone Number 087-7686428 Fax No: E-Mail inarchitecture@yahoo.ie

**3. Name and address for all correspondence (if not completed, correspondence will be sent to applicant)**

Ian Smyth - Green Design Build, 142 Upper Leeson Street, Dublin 4

**4. Applicant's interest in site:**

Freehold Owner

(if applicant is not freehold owner of the property in question, please provide name & address of owner)

**5. Location of proposed development (specify house no. and street name, where applicable)**

Coolfore, Monasterboice, Co. Louth

**6. Description of proposed development:**

Portal frame shed for agricultural usage, 5.07 m in height. Site boundary revisions

Exempted development under agricultural structures, Article 6, Part 3, Class 9.

S.I no 600/2001 Planning and Development Regulations 2001

**7. Does the development consist of works to be carried out to an existing or proposed protected structure? Yes  No**

If Yes, has a Declaration under Section 57 of the Planning and Development Act 2000 been requested or issued for the property by the Planning Authority?

8. (a) If the proposed development is an extension to a dwellinghouse, please include the following:

- Floor area of Proposed Extension \_\_\_\_\_ sq.m
- Floor area of Existing Dwelling \_\_\_\_\_ sq.m
- Area of Rear Private Open Space \_\_\_\_\_ sq.m
- Overall Height of Structure \_\_\_\_\_ metres

(b) Have any previous extensions been carried out? Yes  No

If Yes, please specify:  
\_\_\_\_\_

9. (a) If the development is for the erection of a garage/shed/store etc. please include the following

- Proposed garage/shed/store \_\_\_\_\_ 112 \_\_\_\_\_ sq.m
- Floor area of Existing Structure(s) \_\_\_\_\_ N/A \_\_\_\_\_ sq.m
- Area of Rear Private Open Space \_\_\_\_\_ N/A \_\_\_\_\_ sq.m
- Overall Height of Structure \_\_\_\_\_ 5.1 \_\_\_\_\_ metres

(b) Has any previous garage/shed/store been constructed? Yes  No

If Yes, please specify:

Yes - As indicated on drawings.  
\_\_\_\_\_

10. For any building to be retained on site, or for a change of use of the property please indicate:

- Existing Use Agricultural exempted development, rural, Class 9.
- Proposed Use N/A

11. Please state, where applicable, materials to be used in the construction of any boundary wall or fence:

\_\_\_\_\_ New boundary fences, timber post and rail 1.1m high \_\_\_\_\_

I certify that the aforementioned is correct.

Signature of Applicant: \_\_\_\_\_ Date 08/01/19

Please include the following documents with this application form:

- Site Location Map: (Scale 1:1000)
- Site Layout Map: (Scale 1:200 or 1:500)
- Floor Plans & Elevations: (Scale 1:50, 1:100 or 1:200)
- Application fee: (€80)

Completed Application Form & Fee should be submitted to:

Planning Office  
Louth County Council  
Town Hall  
Crowe Street, Dundalk  
County Louth A91 W20C


Olivia Smyth,  
Coolfore,  
Monasterboice,  
Drogheda,  
Co. Louth.  
7/01/2019.

To whom it may concern,

I, Olivia Smyth of Coolfore, Monasterboice, Drogheda, Co. Louth, as applicant of this house, have agreed with the farmer to adjust the house fence boundaries so that the agricultural shed is no longer part of the curtilage of the house site.

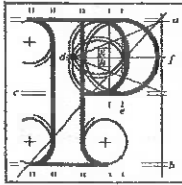
No fences have been erected as of yet but I can put them in line with what is shown on the attached map.

Yours Sincerely,

 7/01/2019

OLIVIA SMYTH.





An  
Bord  
Pleanála

## Inspector's Report ABP301570-18

<b>Question</b>	Whether an existing Portal frame shed for agricultural use is development and is or is to exempted development.
<b>Location</b>	Coolfore, Monasterboice, County Louth.
<b>Declaration</b>	
<b>Planning Authority</b>	Louth County Council.
<b>Planning Authority Reg. Ref.</b>	S.5 2018/16.
<b>Applicant for Declaration</b>	Fergus Neilon.
<b>Type of Application</b>	Referral.
<b>Planning Authority Decision</b>	Works constitute development which is not exempted development.
<b>Referral</b>	
<b>Referred by</b>	Green Design Build on behalf of Fergus Neilon
<b>Owner/Occupier</b>	Fergus Neilon
<b>Date of Site Inspection</b>	4 <sup>th</sup> September, 2018.
<b>Inspector</b>	Paul Caprani.

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## 1.0 Introduction

A question has arisen pursuant of Section 5 of the Planning and Development Act whether an existing steel frame shed and associated blockwork for agricultural use covering an area of 112 square metres constitutes development, and if it constitutes development, whether or not such development is exempted development under the Planning and Development Legislation. The shed in question is located in the townland of Coolfore, Monasterboice, County Louth. The applicant referred the question to Louth County Council and the Council concluded that the shed is not part of any farmyard complex and is located within the curtilage of a dwellinghouse and therefore the structure constitutes development which is not exempted development. The owner/occupier of the lands refer the said question to An Bord Pleanála for determination.

## 2.0 Site Location and Description

- 2.1. The townland of Coolfore is located between the small settlements of Begerath, Monasterboice and Tullyallen approximately 7 kilometres north-west of Drogheda in south-east County Louth. Coolfore comprises of a cluster of approximately 20 dwellings scattered around a Y-shaped junction approximately 1 kilometre west of the M1 Motorway. The subject shed is located to the west of the junction and to the south of a dwellinghouse which has been recently constructed on site. Both the dwellinghouse and shed are located approximately 150 metres from the access road serving the site to the west. According to the drawings submitted on file, the site has a total area of 4.53 hectares (10.7 acres) and comprises of approximately 3 large fields. A smaller area of land on the western side of the access road directly opposite the site also appears to be under the ownership of the referrer's family and these lands accommodate the original farmhouse holding and sheds according to the information submitted. (See rural place map).
- 2.2. The site itself which is located on the eastern side of the access road accommodates a haybarn close to the entrance to the site. A newly constructed large single-storey dwelling has been constructed further back within the site. Approximately 15 metres

to the south of the new dwellinghouse a recently constructed shed is located. The shed is the subject of the current referral.

- 2.3. This shed comprises of a brick base with a kingspan metal clad upper portion. It is 14.5 metres in length and 8 metres in width. It incorporates a large roller shutter door on its front (northern elevation). The lower brick portion of the building incorporates a plaster render finish. The building rises to a ridge height of 5.1 metres. A pedestrian doorway is also located on the front elevation. A mobile home is located to the immediate rear (south) of the shed. According to the information on file the shed occupies an area of approximately 112 square metres.

### **3.0 The Question**

The question before the Board is whether or not the subject shed constitutes development and if it constitutes development whether or not such development is exempted development under the planning legislation.

### **4.0 Planning Authority's Determination**

- 4.1. A report on file from the Planning Enforcement Unit of Louth County Council (Reg. Ref. 17U107 dated 31<sup>st</sup> July, 2017) states that on foot of a site inspection it was concluded that an unauthorised portal framed shed and lean-to has been constructed adjacent to a partially constructed house on the subject site. It is concluded therefore that unauthorised development has taken place and it is recommended that a warning letter be issued to the owner/occupiers of the land in question.
- 4.2. A warning letter pursuant to Section 152 of the Act was issued on 1<sup>st</sup> August, 2017.
- 4.3. A letter on behalf of the owner/occupier dated 3<sup>rd</sup> August, 2017 states that the shed complies with the exempted development Regulations under Article 6, Part 3, Class 9 of S.I. 600 of 2001.
- 4.4. The Board will note that there is additional correspondence on file between the owner/occupier of the lands in question and the Planning Authority in respect of whether or not the structure in question falls within the exempted development Regulations. In this correspondence the Planning Authority maintains that the said

shed in question is within the curtilage of the garden associated with the house, and as it exceeds 25 square metres, it constitutes unauthorised development. A further email on file dated 19<sup>th</sup> October, 2017 on behalf of the owner/occupier states that it is the owner/occupier's intention to make an application for declaration of exempted development.

- 4.5. An application seeking a declaration under the provisions of Section 5 was submitted on behalf of the applicant by Green Design Build Architects. It argues that the shed complies with Article 6, Part 3, Class 9 of S.I. 600/2001 and also complies with all the conditions and limitations in respect of the said exemption class.
- 4.6. The planner's report in respect of the Section 5 declaration (dated 10<sup>th</sup> April, 2018) states that the shed lies within the curtilage of the planning application site granted under 15/456. It is noted that the site plan submitted for the house granted under 15/456 for a dwellinghouse did not show the subject structure within the red line of the boundary.
- 4.7. It is stated that the structure must be located within the same farmyard of other agricultural structures. The only other structures noted as farm buildings are located c.97 metres as shown in the applicant's drawings submitted as part of the Section 5 declaration drawings.
- 4.8. The site plan for the dwelling granted under 15/456 did not indicate any structure such as that constructed on site and it is determined that the site is not an agricultural structure but a shed within the curtilage of a domestic dwelling and accordingly is not exempted development. For the above reasons Louth County Council determined that the works is development and not exempted development.

## 5.0 The Referral to the Board

- 5.1. Green Design Build, agents on behalf of the referrer Mr. Fergus Neilon appealed the decision of Louth County Council under the provisions of Section 5 of the Planning and Development Act to An Bord Pleanála. The referral included drawings, floor plans, elevations, a site location map, photos of the structures and extracts of the Planning and Development Regulations as they relate to the question. The original application form and decision of Louth County Council were also submitted.

- 5.2. It is contended that the shed as constructed complies with Article 6, Part 3, Class 9 of S.I. No. 600 of 2001. It is also stated that each condition and limitation set out under Class 9 is also complied with.
- 5.3. It is also stated that the owner of the dwelling in question Ms. Olivia Smith received a warning letter in respect of the shed/store. The Board are requested to note that it is the farmer Fergus Neilon who built the shed and it does not relate to the planning application granted under Reg. Ref. 15/456.

## 6.0 Planning Authority's Response

A response received by Louth County Council on 6<sup>th</sup> June, 2018 stated that the planner involved in the referral case has no further comment to make in relation to the referral before the Board.

## 7.0 Legislation

### 7.1. Planning and Development Act 2000 (as amended)

#### Section 2 - Definitions

"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.

"Works" include any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

#### Section 3 - Development

In this Act '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 of use of any structures or other land.

#### Section 4 - Exempted Development

The following shall be exempted development for the purposes of the Act.

Section 4(1)(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 the land so used.

## 7.2. Planning and Development Regulations 2001 (as amended)

### Article 6

Article 6.3 states that subject to Article 9, in areas other than a city or 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 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 2.

### Class 9

Works consisting of the provision of any store, barn, shed, glasshouse or other structure not being of a type specified in Class 6, 7 or 8 of this Schedule and having a gross floor area not exceeding 300 square metres. The conditions and limitations in respect of Class 9 are as follows:

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 area of such elements together with any other structures situated within the same farmyard complex or complex of such structures within 100 metres of that complex shall not exceed 900 square metres gross floor area in aggregate.
3. No such structure shall be situated within 10 metres of a 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 (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.
6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

## 8.0 Assessment

- 8.1. The first question which the Board is required to determine is whether or not the structure in question constituted works in accordance with the definition set out under Section 2 of the Act. Works include any act or operation of construction. The shed in question constitutes construction and, therefore as such, would fall under the definition of 'development' as set out in the Act. The Board can therefore reasonably conclude that the shed in question constitutes development under the Act.
- 8.2. The next question which the Board must determine is whether or not the works constitute exempted development under the provision of the Act and Regulations. Agricultural development is exempted under the provisions of Section 4(1)(a) of the Act.
- 8.3. Article 6 of the Act also exempts works carried out under Schedule 2, Part 3, Class 9 provided the gross floorspace does not exceed 300 square metres. The shed in question at approximately 112 square metres would fall within this limit.
- 8.4. While I did not have an opportunity during my site inspection to enter the shed in question, I refer the Board to the various photographs submitted with the referral which clearly in my view, indicates that the shed in question is used for agricultural storage. I note from the photographs that there is a tractor and various other agricultural machinery being stored within the building. The Board in my opinion could reasonably conclude based on the photographs submitted that the shed is used for agricultural storage.
- 8.5. I have consulted details of the planning application for the adjacent dwelling house (register ref. 15/456) on Louth County Council's website and I would highlight to the Board that the area delineating the planning application site appears to be the same as that delineated on the Rural Place Map submitted with the current referral. That is to say that, the area to which planning reference 15/456 relates amounts to 4.55 hectares and 10.7 acres. I further note that the planner's report in relation to same specifically states that the site is "agricultural land and extends to approximately 10 acres" (see Section 1 of planner's report).

- 8.6. Furthermore, during my site inspection I noted that the lands surrounding the newly constructed dwellinghouse was used for the growing of a grain or cereal crop. I refer the Board to the photographs attached. It would be unreasonable in my view to form a conclusion that in the grant of planning permission for the dwellinghouse that the entire lands within the red boundary line could be regarded as a private garden associated with the house. While planning permission was granted for the house in question, it is evident that the lands included within the application site have been continued in use as arable land for the growing of crops.
- 8.7. Therefore, notwithstanding the fact that planning permission has been granted for a dwellinghouse on the site, the lands surrounding the site continue to be used for agricultural purposes and as such I would not agree with the Planning Authority's conclusion that the shed is not part of any farmyard complex and is located within the curtilage of a dwellinghouse approved under 15/456.
- 8.8. It is clear that the lands surrounding the subject site are still used for agricultural purposes and as such the shed in question could be classed as an agricultural shed.
- 8.9. If the Board agree with this conclusion and also agree that the structure in question falls below the limit set out under Class 9, a question now arises as to whether or not the said shed complies with all the conditions and limitations set out under Class 9 in order to be afforded exempted development status.
- 8.10. The compliance with the conditions and limitations set out under Class 9 are assessed below.
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'.*  
As already stated I did not have the opportunity during my site inspection to gain access to the shed in question. However, it appears clear from the photographs contained on file that the shed is used for the storage of agricultural machinery and is not used for the housing of livestock nor the storing of effluent. I therefore consider the shed in question would comply with this condition. ✓

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

Louth County Council came to the conclusion that the proposal did not comply with this condition as the shed is not part of any farmyard complex and is located within the curtilage of a dwellinghouse. I have argued above that the area surrounding the dwellinghouse is currently used as a farm and therefore the building in question constitutes an agricultural building. While it may not form part of a farmyard complex comprising of a number of buildings this does not in itself de-exempt the structure in question. The rationale behind Condition No. 2 is a requirement that the cumulative gross floor area of farmyard buildings within 100 metres of each other within the farm should not exceed 900 square metres gross floorspace. The building in question in combination with all other buildings within 100 metres would not exceed 900 square metres. There is one other building other than the dwellinghouse within the confines of the site. This is a haybarn located near the entrance of the site and while this building appears to be within 100 metres of the subject shed I estimated it to be less than 250 square metres in size. Therefore, the aggregate gross floor areas of the building within the 10.7 acre site falls well below the 900 square metre threshold as stipulated in Condition No. 2. ✓

3. That no such structure shall be situated within 10 metres of any public road.

The shed at its nearest point is located approximately 140 metres from the nearest public road. ✓

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

As stated above the structure in question is not located within 100 metres of any public road. Furthermore, at 5.1 metres it does not exceed 8 metres in height. ✓

5. That 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 as may be appropriate the occupier or person in charge thereof.

There is only 1 dwellinghouse located within 100 metres of the subject site, this being the house granted under Reg. Ref. 15/456. The nearest dwellinghouse to the west of the shed in question is located in excess of 100 metres from the shed. Having inspected the documentation on file I note that the dwellinghouse granted planning permission under Reg. Ref. 15/456 is in different ownership from the shed in question. The referral submitted to the Board states the following:

*"It should also be noted that another one of our clients, Olivia Smith, of Coolfore, Monasterboice, County Louth received a warning letter (Ref. 17U107) about the shed/store on their lands. Please note that it is the farmer Fergus Neilon who built the shed and it does not relate to the planning application granted (Ref. 15/456) and under construction nearby".*

It appears therefore that the house which is under construction and the shed in question are in separate ownership. It also appears that there is no letter of consent on file which specifically states that Ms. Olivia Smith has specifically given her consent in writing to the shed in question.

It is assumed however that the owner of the said dwellinghouse is fully aware of the issues surrounding the planning status of the shed in question as it was the owner of the house that was originally served with the warning letter.

While the referral submitted to the Board indicates that there is compliance with the condition and limitation no. 5 as set out under Class 9, no evidence has been submitted confirming this. Therefore, prior to issuing a declaration on the said question the Board may wish to seek further information confirming that the occupier of the dwelling in question provide consent in writing in respect of the said structure.

It would seem unreasonable in my view to de-exempt the agricultural structure purely because such a letter of consent was not submitted without seeking further information in this regard.

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

It is clear from the photographs attached that the metal sheeting on the structure in question has been painted and therefore fully complies with this stipulation.

## 9.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 10.0 EIA Screening Determination

The development in question does not fall within a class of development for which EIAR is required and as such an Environmental Impact Assessment is not required in this instance.

## 11.0 Conclusions and Recommendation

Arising from my assessment above I consider that the building in question constitutes an agricultural building on the grounds that it is located within lands accommodating agricultural activity. I further consider that the building in question falls within Part 3, Class 9 of the Exempted Development Regulations under S.I. No. 600/2001 (as amended). I further consider that the structure in question appears to comply with all the conditions and limitations set out under Class 9. I do however note that there is no specific letter of consent in respect of the said structure from the resident of the residential dwelling granted under Reg. Ref. 15/456. With this in mind, the Board may wish to clarify in writing that the occupier of the dwelling in question consents to the structure in question in accordance with the condition and limitations set out under Condition/Limitation 6 of Class 9 prior to issuing a formal declaration in respect of the question before the Board.

In the event that the Board clarify this issue of consent, or indeed come to the conclusion that such a letter is not deemed necessary, and it is satisfied that the development in question fully complies with all other conditions and limitations associated with Class 9, Part 3 Schedule 2, I recommend that the Board should decide this referral in accordance with the following draft order.

**WHEREAS** a question has arisen as to whether an existing portal framed shed for agricultural use is or is not development or is or is not exempted development.

**AND WHEREAS** Fergus Neilon requested a declaration on this question from Louth County Council and the Council issued a declaration on the 12<sup>th</sup> day of April, 2018 stating that the matter was development and was not exempted development.

**AND WHEREAS** the owner/occupier referred this declaration for review to An Bord Pleanála on 8<sup>th</sup> day of May, 2018.

**AND WHEREAS** An Bord Pleanála in considering this referral had particular regard 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) of the Planning and Development Regulations 2001, as amended.
- (e) Class 9 of Part 3 of Schedule 2 to the Planning and Development Regulations 2001, as amended and the conditions and limitations attached thereto.

**AND WHEREAS** An Bord Pleanála concluded that the lands surrounding the building are in agricultural use and the building in question falls within Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, and the building in question complies with all the conditions and limitations set out under Class 9, Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

**NOW THEREFORE** An Bord Pleanála in exercise of the powers conferred on it by Section 3 of the 2000 Act, hereby decides that the existing portal framed shed for agricultural uses is development and is exempted development.

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**Paul Caprani,**  
**Senior Planning Inspector.**

**October 1st, 2018.**