

The Secretary.  
An Bord Pleanála,  
64, Marlborough Street,  
Dublin 1.

30<sup>th</sup> September 2019.

Dear Sir or Madam,

**SECTION 5 REFERRAL REQUEST – WHETHER THE SPECIFIED USE OF 6 NO. BUILDINGS AT A PREMISES AT COLLEN BEG, COLLEN, COUNTY LOUTH IS OR IS NOT DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT. PA – LOUTH COUNTY COUNCIL; PA DECLARATION REQUEST REF: S5 2019/37; DATE OF PA DECISION 19<sup>TH</sup> SEPTEMBER 2019**

**1.0 INTRODUCTION**

This is a Referral to An Bord Pleanála of a Declaration request issued by Louth County Council in respect of the use of 6 number buildings at a site at Collen beg, Collen, County Louth. The Referral is made under the provisions of Section 5(3) of the Planning and Development Act 2000 as amended. Please find enclosed the Referral fee of €220.

Stephen Ward Town Planning and Development Consultants Limited of Jocelyn House, Jocelyn Street, Dundalk, County Louth acts on behalf of the applicant, Mr. B (Barry) Davis of Shanlis, Ardee, County Louth. Please address all correspondence in the matter to Stephen Ward and Co at the above stated address.

**2.0 SITE LOCATION AND DESCRIPTION**

The premises is located at Collen beg, c2.5km south-east of the village of Collen and c 7km north-west of Drogheda. The site is accessed via a permitted access and driveway off the local road L2295 that connects to the R168, Drogheda – Collen Road, c200 metres to the south of the site access point. The access to the site off the local road L2295 comprises a permitted and constructed part concrete part gravel/hard-core roadway leading to a complex of buildings and compounds. The buildings are generally metal clad with roller shutter doors.

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The buildings are set around a concrete yard area which the subject buildings positioned towards the eastern, western and southern boundaries. The site slopes down from the point of access from the local road to the yard itself. The access road is c.200 metres in length such that the buildings are set well back from the local road and at a lower level than the road.

At the outset we wish to state that all of the buildings and structures that are the subject of this Referral have the benefit of planning permission, as does the access and driveway and the only question is that of the use of the specified buildings. Figure 1 below illustrates the location of the site.

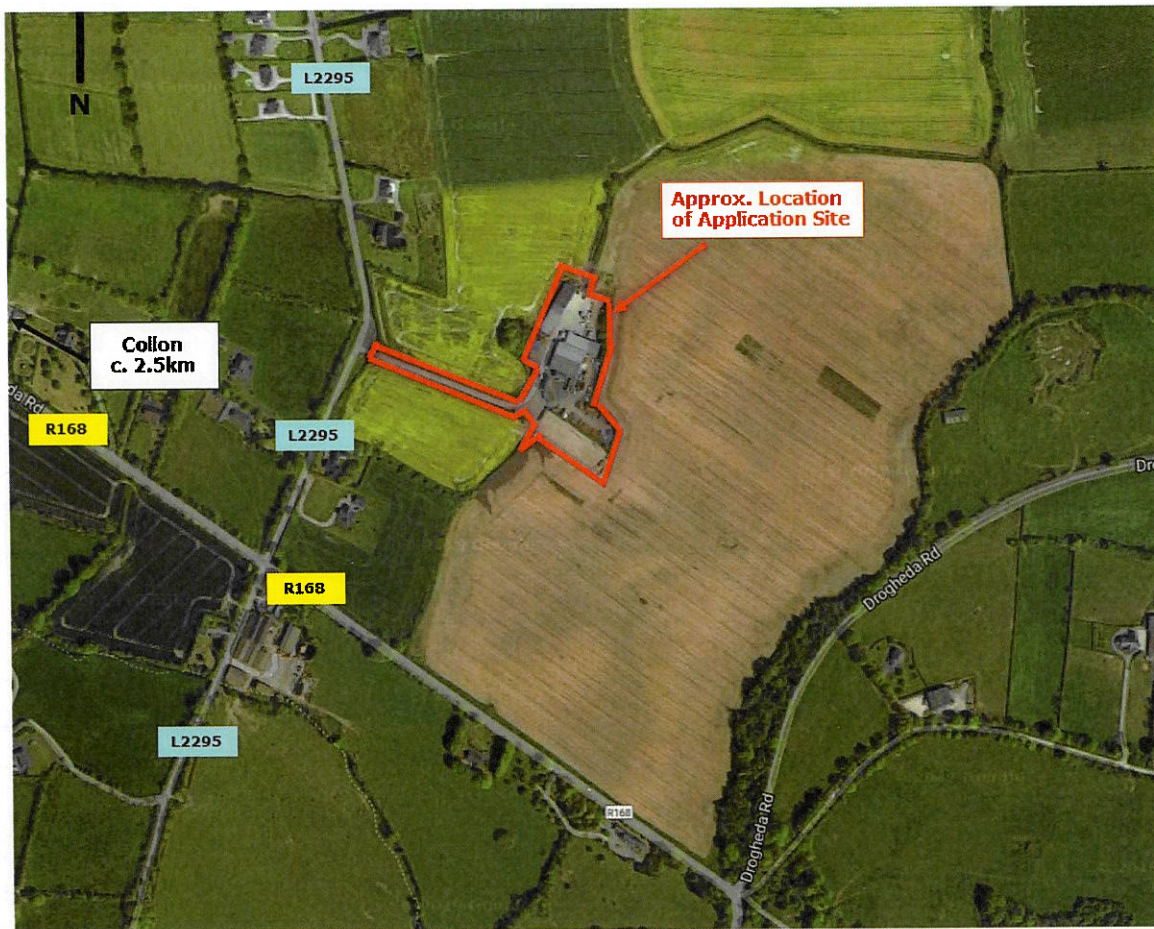


Figure 1 - Site Location Map.

**3.0 THE DECLARATION REQUEST AND DECISION OF THE PLANNING AUTHORITY**

On the 29<sup>th</sup> August 2019, a request for a Declaration under the provisions of Section 5 of the Planning and Development Act 2000 (as amended) relating to the above matter was lodged with the Planning Authority. By correspondence dated the 19<sup>th</sup> September 2019, the Planning Authority concluded that the specified works fall under the definition of development but are not exempted development. A copy of the Declaration Request decision is attached to this Referral Request. The Declaration was made in respect of the use of 6 specified buildings at a site at Collen beg, Collen, County Louth and whether that use is development and is or is not exempted development.

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The Planning Authority decision on the Declaration Request concluded that the use of all six of the buildings the subject of the Declaration was development and was not exempted development. It reached this conclusion by reference to the following sections of the Act and associated Regulations –

- (a) Section 3 of the Planning and Development Act 2000 (as amended).
- (b) Article 9(1)(a)(i) of the Planning and Development Regulations 2001 (as amended).
- (c) Article 9(1)(a)(vi) of the Planning and Development Regulations 2001 (as amended).

#### **4.0 REPORT OF THE PLANNING OFFICER ON THE S5 DECLARATION REQUEST**

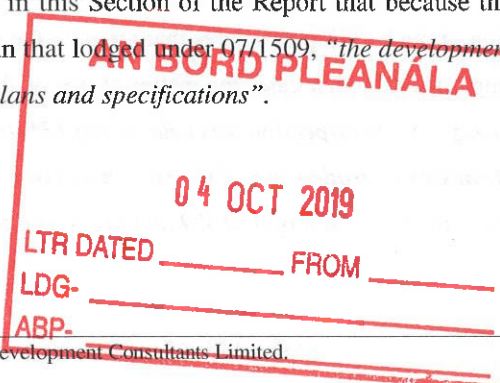
The Report of the Planning Officer on the matter is dated the 18<sup>th</sup> September 2019 and is attached to this Referral Request. Section 6 of the Report of the Planning Officer is the Assessment Section of the Report. This section deals with the matter under four headings –

**(i) Whether the proposal constitutes development** - Here the Planning Officer notes a map showing the use of the buildings on site was submitted in conjunction with the Section 5 declaration, noting the uses are dry storage in two buildings, office use in two buildings and machinery storage and repair in two buildings. The Planning Officer then goes on to state – *“Buildings are not to be used by the same operator furthermore they are not utilised for the “... repair service, storage and sales of machinery” and thus would an facto industrial estate. The works as described at Collen Beg, Collen, County Louth constitute a material change and are considered to be development”*.

**(ii) Whether the proposal constitutes exempted development** – Under this section of the Report the Planning Officer simply states – *“As per paragraph 6(i) above the works as described at Collen Beg, Collon, County Louth constitute a material change of use and therefore are not considered to be exempt development”*.

**(iii) Whether the proposal contravenes a condition attached to a permission** – Under this item the Planning Officer refers to conditions attached to planning permission ref. no. 07/1509 and particularly condition nos. 1 and 9 of that permission. This section of the Report concludes *“The works specified in the Section 5 declaration do not relate to agricultural machinery therefore the development has not been carried out in strict conformity with the lodged plans and specifications”*. This is concluded on the basis of condition no. 1 of the permission that requires the development is undertaken in strict conformity with the lodged plans and specifications and condition 9, and the response of the application to a further information request wherein the applicant stated that agricultural machinery (already assembled) was to be stored at the site. With regard to condition No. 9 the Planning Officer states *“the works specified in the Section 5 declaration do not relate to “...repair service, storage and sales of machinery”, instead they relate to a de facto industrial estate”*.

In addition to the above, the Planning Officer concludes in this Section of the Report that because the site outlined in red under the Declaration Request is larger than that lodged under 07/1509, *“the development has not been carried out in strict conformity with the lodged plans and specifications”*.



(iv) **Whether the proposal interferes 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 the development plan for the area** – Within this section of the Report the Planning Officer essentially quotes and restates refusal reason No. 4 attached to PA Ref. 18/495. The Planning Officer Report then concludes on this matter as follows – “*The works specified in the Section 5 Declaration therefore contravene Article 9(vi) of the Planning and Development Regulations 2001 (as amended)*”.

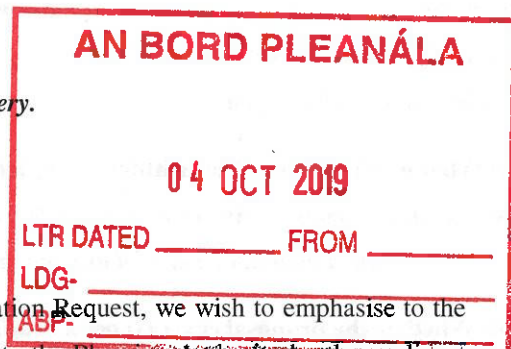
## **5.0 THE REFERRAL QUESTION**

The remaining sections of this Section 5 Referral Request restate the Referral question, clarify the purpose of the Referral, provides relevant definitions and then sets out why, in the opinion of the applicant, the Planning Authority has erred in concluding that the present uses of the specified buildings are development and are not exempted development.

The Declaration question as submitted to the Planning Authority is restated below and is as follows: -

*“Whether the following stated uses within the buildings specified below and illustrated on the attached site layout plan are or are not development or are or are not exempted development within the meaning of the Act –*

- 1) *Use of Building 1 as office / meeting room.*
- 2) *Use of Building 2 as office.*
- 3) *Use of Buildings 3 for the repair and storage of machinery.*
- 4) *Use of building 4 for the storage of dry goods.*
- 5) *Use of Building 5 for repair and storage of machinery.*
- 6) *Use of Building 6 for storage of dry goods.*



In terms of the decision of the Planning Authority on the Declaration Request, we wish to emphasise to the Board that the issues raised in the Declaration request submitted to the Planning Authority by the applicant here relate to the specified use of the stated 6 buildings. The matter of use of the specified buildings first arose in a Warning Letter dated the 18<sup>th</sup> December 2018 wherein the First Schedule to the Warning Letter stated inter alia – “1. *Unauthorised industrial complex*” and “2. *Unauthorised “change of use of existing agricultural machinery yard and store to store and yard for repair, service, storage and sales of machinery, conversion of two stone buildings to office accommodation and store” to other commercial uses, contrary to Condition No. 9 of Planning Reference: 07/1509 which states the following: The proposed development shall be used in accordance with that specified in the application and not for any other industrial, business or commercial purpose*”.

In planning application Ref 18/495 the applicant did not seek retention of change of use of any of the buildings nor retention of the building structures that are now the subject of the Referral. Nevertheless, in the Report of the Planning Officer in that case, the matter of use of the buildings is raised with the Report of the Planning Officer stating – *A site inspection was held on the 13<sup>th</sup> July 2018 and it was established there are five different entities/businesses operating out of the site*” and goes on to state – “*The uses(s) of the buildings are not in compliance with condition 9 of 07/1509 and are thus unauthorized*”. (Underline added).

The use of the buildings then formed part of the stated refusal reasons under 18/495.

We ask the Board to note that at no point has the Planning Authority suggested that the buildings themselves the subject of this Referral do not have the benefit of planning permission.

**6.0 REASON FOR SEEKING REFERRAL REQUEST**

Having regard to the above, this S5 Referral Request arises as a result of a dispute with the Planning Authority as to whether the current uses of the 6 specified buildings are in material contravention of a condition attached to the grounding permission for the development of the site. As noted this stems from certain provisions of a Warning Letter issued by Louth County Council on the 18<sup>th</sup> December 2018 (Attached) to Mr. Davis and specifically the following under the "Details of Unauthorised Development" –

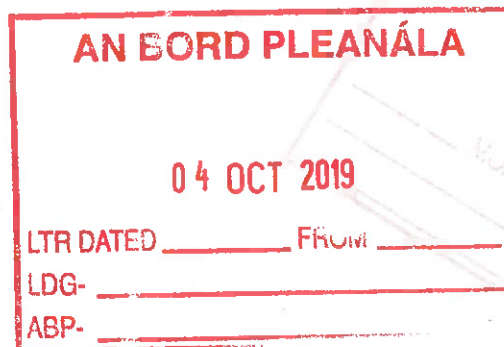
*"(2) Unauthorised change of use of existing agricultural machinery yard and store to store and yard for repair service, storage and sales of machinery, conversion of two stone buildings as office accommodation and store to other commercial uses, contrary to condition No. 9 of planning reference 07/1509 which states the following: The proposed development shall be used in accordance with that specified in the application and not for any other industrial, business or commercial purpose".*

In the interests of clarity, the applicant wishes to state and confirm, there are no sales taking place from the present uses on the site with uses limited to storage and repair.

**7.0 STATUTORY PROVISIONS AND DEFINITIONS**

The Referral question is posed at Section 5.0 of this Statement. It is the submission of the applicant that the present uses of the buildings are not development and if they are development they are exempted development. This Section of the Submission sets the legislative background to allow the Referral to be objectively assessed against a consistent definition baseline in terms of justification for and assessment of the uses. Throughout this Referral Request the applicant will reference the meaning attached to the word material in planning law.

Firstly, definitions from the Planning and Development Act 2000 as amended are provided. The Referral request then sets out the reasons why it is considered the specified use in the context of these buildings either are not development or are development and are exempted development within the meaning of the Act.



## 7.1 Definitions

The following definitions from the Planning and Development Act 2000 as amended are relevant -

### a) Section 2 of the Act -

Section 2 provides the following definitions –

*“Development has the meaning assigned to it by section 3, and “develop” shall be construed accordingly”.*

*“Works” includes any act or operation of construction, excavation or 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.”*

### b) Section 3 of the Act -

Section 3 defines development as –

*“the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land”.*

### c) Section 4 of the Act -

Section 4(1)(h) states - *“The following shall be exempted developments for the purposes of this Act –*

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



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**8.0 PLANNING HISTORY**

The planning application most relevant to this Referral request is P.A. Ref. No. 07/1509. Since the granting of 07/1509, two applications have been refused (17/578 and 18/495) and one has been withdrawn (17/643). Table 1 below provides details of these previous applications.

Ref. No	Applicant	Lodged with PA	Summary of Proposal	Decision
07/1509	R. Davis	06/09/2007	Permission for change of use of existing agricultural machinery yard and store to store and yard for repair service, storage and sales of machinery, conversion of two stone buildings to office accommodation and stores. Yard to be accessed via existing entrance and lane	Granted (04/02/2008)
17/578	B. Davis	28/07/2017	Retention permission and completion of works sought for the following: Grain and Machinery Store	Refused (27/10/2017)
17/643	M. Davis	29/08/2017	Retention permission sought for extension to existing building for sales, storage, service and repair of machinery and all associated site works	Withdrawn (06/10/2017)
18/495	B. Davis	27/06/2018	Retention and permission for completed and partially completed buildings and hard-core area.	Refused (10/08/2018)

*Table 1 – Planning Application History*

Planning application 07/1509 (Attached) was permitted on 04/02/2008 for the following, “*Permission for change of use of existing agricultural machinery yard and store to store and yard for repair service, storage and sales of machinery, conversion of two stone buildings to office accommodation and stores. Yard to be accessed via existing entrance and lane.*”

Condition No. 9 of 07/1509 states – “*The proposed development shall be used in accordance with that specified in the application and not for any other industrial, business or commercial purpose*”.

During the course of consideration of 07/1509, the Planning Authority issued a request for further information. The applicant responded as follows – “*Agricultural machinery – already assembled will be stored at the premises. There will be some minor repairs carried out at the premises. There will be no spray painting or vehicle finishing at the premises*”. The Report of the Planning Officer on the FI submission under 07/1509 states – “*The applicant gives details relating to the type of machinery to be stored at the premises i.e. agricultural*”.

### 9.0 NEED AND JUSTIFICATION FOR USE

The structures that are the subject of this Referral are in place in accordance with the terms and conditions of the permission under which they were permitted. They are not subject to enforcement action and they were not queried during the consideration of application 18/495 by the Planning Authority. The use of these buildings is the cause of the dispute with the Planning Authority. The applicant's father originally operated an agricultural machinery / equipment importation business from the site where agricultural machines and equipment were imported from the UK and then repaired for onward sale within Ireland. Unfortunately, due to circumstances beyond the control of the applicant's father this business declined to such an extent that the majority of the buildings were either underused or vacant.

In response to the decline in the agricultural machinery / equipment importing business, Mr. Davis senior sought out similar operators for machinery storage / sales / repair uses. It is acknowledged that the machines / equipment presently stored and repaired at the site are not agricultural in nature. However, it is the submission of the applicant that as the original permission was for commercial agricultural storage / repair purposes i.e. not related to the applicant's farm business and not restricted to sole use by the applicant, and the use was not restricted to agricultural use, there is no planning difference between the permitted "agricultural machinery and equipment storage / repair / sales" business permitted at the premises and the "machinery storage / repair and storage" businesses that currently operate from these buildings. As previously stated, the applicant wishes to confirm, there are no sales taking place from the present uses on the site with uses limited to storage and repair.

**Buildings 1** In use as office/meeting room

**Building 2-** In use as office

**Building 3** -In use for the repair and storage of machinery (Used by Meehan Drilling wherein the drill rigs and machinery are stored and repaired as needs be).

**Building 4** - Used for storage of dry goods.

**Building 5** - Used for the storage and repair of machinery - Used by an outside catering company wherein its equipment is stored and repaired as needs be.

**Building 6** Used for storage of dry goods

### 10.0 APPLICANT SUBMISSION ON REFERRAL QUESTION AND RESPONSE TO PLANNING AUTHORITY ASSESSMENT AND DECISION

It is the submission of the applicant that for the following reasons the uses as described in this Referral question and as specifically described, illustrated and identified in the illustration that accompanied the Declaration request and this Referral in this submission do not constitute development within the meaning of the Act and associated regulations and if they do constitute development they are exempted development within the meaning of the Act and associated Regulations.

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**No Material Change of Use** – In land use planning terms the uses are not materially different from the permitted uses. It is contended, given the buildings within which the existing uses operate, have the benefit of planning permission, that there is no material difference between the use of the buildings for repair / storage of agricultural equipment and goods and the use of the buildings for the repair / storage of other goods and equipment. There is no material difference between the commercial repair / storage of agricultural equipment and goods and the same for other equipment. This is contended notwithstanding the further information request issued by the Planning Authority, the response of the applicant, the commentary of the Planning Officer on the further information submission and condition no. 9 of the decision under 07/1509.

*The current uses do not result in any physical and visual changes to the existing permitted buildings nor any external impacts such as noise, dust or traffic; there is no material change of use. Permission 07/1509 does not restrict the occupancy of the premises to the applicant or restrict use to agricultural use or link it to the applicant's farm or to any farm enterprise, nor does it restrict the use to the applicant's own business and/or restrict use to a single user. It is acknowledged that the applicant FI response to 07/1509 does state "agricultural machinery" but in the context of the permission and the conditions attached to the permission, in land use planning terms whether it is agricultural machinery or other types of machinery is immaterial.*

**Material Impact** - In terms of the proper planning and sustainable development of the area, for an impact to arise it must be a "material" impact. Further to this by reference to planning case law as contained in the book "Planning and Development Law" (Simmons G. Second Edition: 2-19 to 2-27), "it is not the change but the materiality of the change that requires assessment and the materiality of the change is assessed by reference to its effects"

*It is submitted that the works do not effect either the character of the buildings or any element of the structures. Equally, and as noted above the present uses of the buildings does not give rise to any external effects, such as changes to traffic types or patterns, noise, dust or odour or impacts on residential amenity.*

By reference to planning case law specifically Cairnduff v. O' Connell (1986) IR 73, in addition to layout the character of a structure is also derived from - "shape", "colour", "design" and "ornamental features". As pointed out by Herbert J. in Mc Cabe v. Coras Iompair Eireann (2006) IEHC 356 - "there are undoubtedly exceptional cases in which a single feature of a structure is so outstandingly remarkable or so important from an aesthetic, architectural or engineering perspective, that it could be properly and rationally be said to derive its entire character from that single feature". There is no change to the building assemblage and this remains unaltered with the current uses in place. In Mc Cabe v. Coras Iompair Eireann (previously cited) Herbert J. goes on to state the character of the structure should be assessed by "looking objectively at the entity as a whole" taking all of the elements that contribute to character into account.

*It is submitted that looking at the entity as a whole, including visually and functionally, there is no difference between that permitted under 07/1509 i.e. repair / storage / office use and that which currently exists at the site.*

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As noted at the definitions Section of this Planning Report, the Act defines “**Development**” as “*the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land*”.

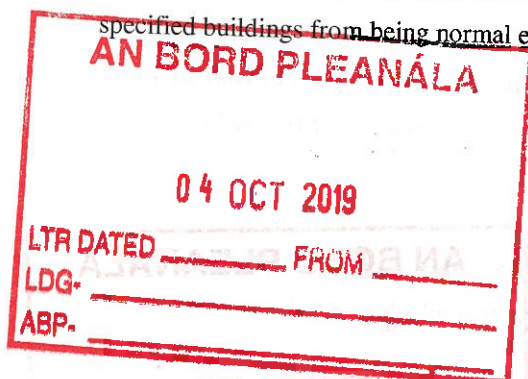
In terms of the proper planning and sustainable development of the area, for an impact to arise it must be a “material” impact. It is submitted that the use of the buildings for the purposes as set out above does not constitute a material change of use. Equally, the uses do not affect the external appearance of the buildings or the yard areas in a material way. Looking objectively at the buildings and premises as a whole, there is no material differences between the use for the storage / repair of agricultural equipment and goods and that which currently exists. We ask the Board to note condition no. 9 of the permission did not restrict the uses to agricultural uses or for that matter to the business of the applicant. Nor did the permission restrict the use of the premises to a single user.

It is further submitted the uses in question, if they are development at all, are exempted development as any works undertaken to facilitate the current uses consist of the carrying out of works for the maintenance, improvement and alteration of the structures and do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures. (Section 4(1)(h) of the Planning and Development Act 2000, as amended).

*It is submitted that to all intents and purposes, there are no differences in terms of land use planning whether the buildings are used for the commercial storage / repair / sale of agricultural machinery or any other type of storage / repair of machinery. To reiterate and clarify, there are no sales taking place from the present uses on the site with uses limited to storage and repair. In lay terms there is no difference between the storage / repair of a combine harvester or a drill rig at the premises. In terms of externalities, there is also no impact. There is no change in the type or amount of traffic attending the site and no visual change to the appearance of the buildings when viewed from surrounding roads or lands. There is also no change to the noise, dust or odour environment whether it is agricultural machinery or other type of machinery on the site.*

**11.0 ARTICLE 9 OF PLANNING AND DEVELOPMENT REGULATIONS 2001 (AS AMENDED)**

Article 9 of the Planning and Development Regulations 2001 as amended sets out a number of restrictions on development that would otherwise be exempted development under the provisions of Article 6 of the Regulations. It is submitted there are no provisions under Article 9 that would “de-exempt” the uses in the specified buildings from being normal exempted development.

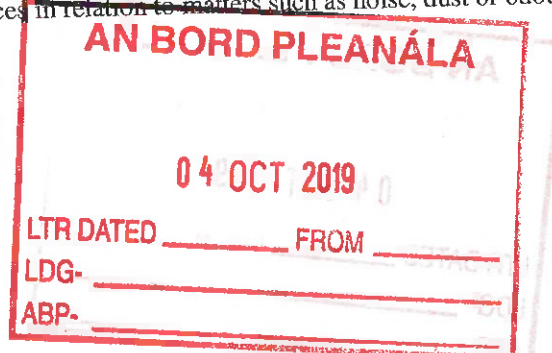


Notwithstanding our submission that the use is not development as no works were carried out and no material change of use has occurred, set out below with reference to relevant provisions of Article 9 are the reasons why, in the event the Board considers the use is development, it is submitted the present uses "qualify" as exempted development in the normal way. Prior to setting out these reasons, we reiterate they are made in the knowledge of the background reports to PA Ref 07/1509, including the request for further information, the response of the applicant, the report of the Planning Officer and the conditions attached to that permission, and particularly condition 9 of the permission. We reiterate the use was never conditioned to be restricted to agricultural use only to use for storage / repair / sales of agricultural machinery only and in that light there is no planning difference between commercial storage / repair of agricultural machinery and other such machinery and equipment.

1) "Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act" –

It is submitted the present uses of the site do not in any material way contravene a condition (condition 9 of 07/1509) or be inconsistent with any use specified in the permission (condition no. 1 of 07/1509). It is acknowledged that in the event the relevant conditions related to, for example, the agricultural use of the premises or restricted the use to the applicant's farm or even his farm business, then it may be the case that the uses would contravene those conditions. However, this is not the case, and the restriction is specified at condition no. 9 that states – "The proposed development shall be used in accordance with that specified in the application and not for any other industrial, business or commercial use". The restriction is aimed at the use of the premises not being changed to another industrial / business / commercial use but not within the same use i.e. storage and repair of machinery and equipment.

The Report of the Planning Officer on the FI response states in relation to use – "The applicant gives details relating to the type of machinery to be stored on the premises i.e. agricultural. It is submitted it is evident that the purpose of the development is for storage / sales / repair on a commercial basis of agricultural machinery. In particular, no restrictive conditions are attached that restricts its use to that of machinery related to the applicant's farm or to the local area. Such agricultural machinery could come from any source, be of any type and could also be sold to any source at any location. As such there is no planning difference between the use of the premises for the storage / repair / sale of agricultural machinery and other types of machinery. This is evidenced as there are no changes to traffic patterns to or from the site, there are no visual differences when viewed either within the site or external to the site and there no differences in relation to matters such as noise, dust or odour.



- 2) *Consist of or comprise the widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width or endanger public safety by reason of traffic hazard.*

The access to the development is permitted under 07/1509 and has been constructed in accordance with that permission. The current use of the buildings does not involve the widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width or endanger public safety by reason of traffic hazard.

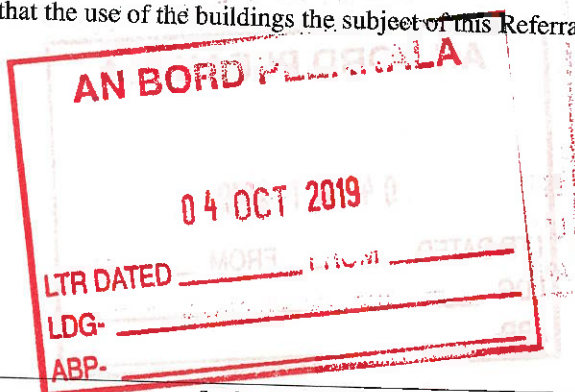
- 3) *Interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of the development plan for the area.*

It is noted that in its declaration decision the Planning Authority states this provision as a reason why the declaration application was considered as not exempted development. It is submitted this provision does not apply as the 6 specified buildings that are the subject of this Referral have the benefit of planning permission and it is only the use that is in dispute with the Planning Authority. It is submitted any potential impact on the character of a landscape is defined by the buildings and not the former or present use of the buildings. Given the buildings the subject of this Request have the benefit of planning permission, there is no prospect of impact on the character of a landscape, or a view or prospect of special amenity value the preservation of which is an objective of the development plan for the area.

- 4) *Comprise a development that would require appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.* The site was subject to Appropriate Assessment Screening under PA Ref 18/495. Although application 18/495 was refused permission by the Planning Authority, in its assessment of the application, the Planning Authority concluded the development would not impact on any European site. The AA Screening Report submitted with application 18/495 is submitted as part of this Section 5 Referral Request. As a result of the AA Screening Report, the potential for significant impact on any European site can be ruled out. As such Stage 2 Appropriate Assessment is not required.

- 5) *Consist or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised structure.*

The structures that are the subject of this S5 request are not unauthorised structures. It is submitted that the use of the buildings the subject of this Referral request are also not unauthorised.



**12.0 CHANGES OF USE**

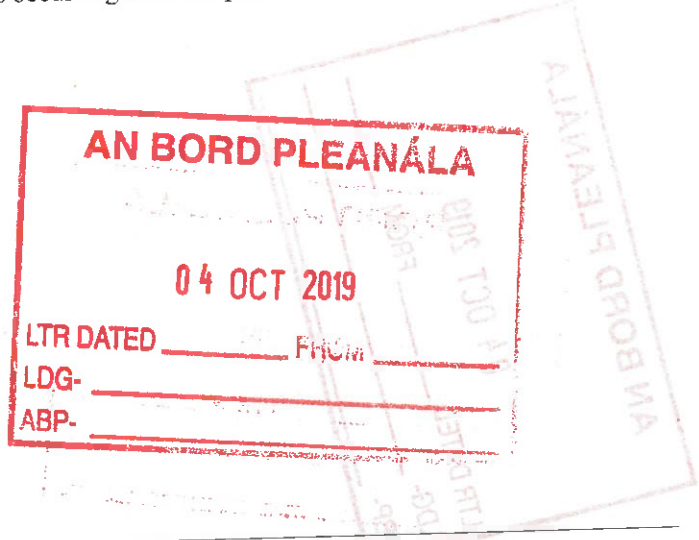
Article 10 of the Planning and Development Regulations 2001 as amended states development that consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, subject to a number of restrictions. It is submitted that if the present uses are a change of use at all they are, in the context of the permission (07/1509), exempted development as they would fall within Class 5 of Part 4 of the Second Schedule to the Planning and Development Regulations 2001 as amended – “Use as a wholesale warehouse or a repository”.

Furthermore, as already stated, it is submitted that in terms of proper planning and development considerations, the uses do not fall within any of the restrictions attached to Article 10, including contravening a condition attached to a permission or being inconsistent with any use specified or included in such a permission (the permission restricts use to storage / repair / sales and not to an agricultural use). The restriction relates to the use going outside storage / repair / sales and not to agricultural use per se.

**13.0 SUMMARY AND CONCLUSIONS**

It is submitted the present uses of the buildings that are the subject of this Section 5 Referral Request do not constitute development within the meaning of the Planning and Development Act 2000 as amended and associated Regulations. In the event An Bord Pleanála considers the uses do constitute development, it is submitted that the uses are exempted development and come within the scope of Section 4(1)(h) of the Planning and Development Act 2000 as amended as they would not materially affect the external appearance of the structures so as to render the appearance inconsistent with the character of the structure or of neighbouring structures or give rise to any material ‘externalities’ including traffic, noise, dust, odour or impact on the residential amenities of surrounding dwellings or otherwise. It is further submitted that Class 5 of Part 4 of the Second Schedule to the Planning and Development Regulations 2001 as amended applies as the use remains within said Class – “Use as a wholesale warehouse or a repository”.

It is submitted that although the planning permission 07/1509 and condition No. 9 of that permission restricts use to storage / repair / sales of plant, equipment and machinery and does not restrict the use to agricultural machinery. Given the use is not restricted to agricultural use, there is no material difference between storage / repair / sale of agricultural plant, equipment and machinery and any other type of plant, equipment and machinery. The applicant reiterates there is no sales occurring from the premises and this will remain the case.



We also highlight that the permission (07/1509) does not limit the user of the premises to the applicant, to agricultural use or an agricultural user or to agricultural use related to the applicant's farm enterprise. Furthermore, the permission does not restrict the use or operation to a single user. There is nothing in the permission that would restrict different users in the different buildings. We contend Article 9(vi) of the Planning and Development Regulations 2001 (as amended) does not apply as the 6 specified buildings have the benefit of planning permission and so there is no prospect that the uses within these buildings could 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 the development plan for the area.

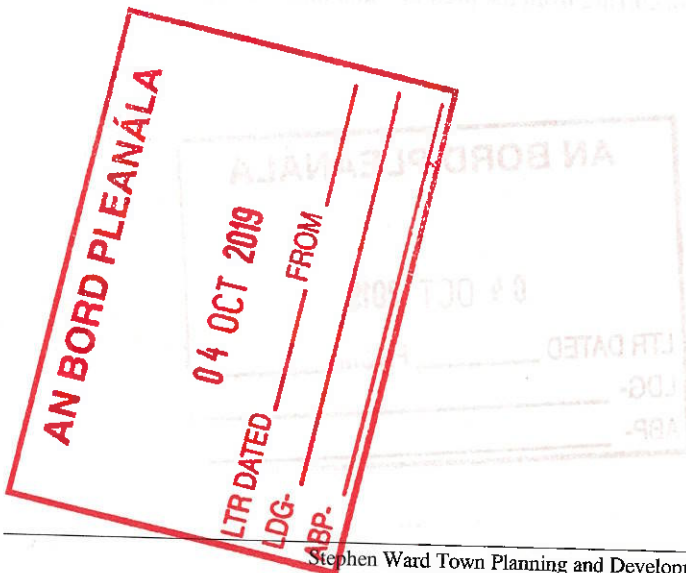
Under P.A. Ref. 18/495 the overall site was subject to Appropriate Assessment Screening by the Planning Authority who concluded there is no prospect for significant impact on any designated European site.

It is submitted the uses within the 6 specified buildings as set out and described in this Referral are not development and if they are development they are exempted development. This is the case having regard to –

- a) *The provisions of Sections 2, 3 and 4 of the Planning and Development Acts 2000 as amended,*
- b) *Class 5 of Part 4 of the Second Schedule to the Planning and Development Regulations 2001 as amended.*
- c) *The planning history of the buildings including background and other documentation.*

Yours faithfully,

**Stephen Ward**

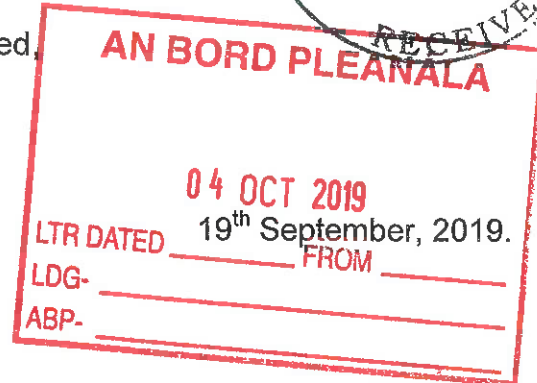




Comhairle Contae Lú  
Louth County Council



Mr. Barry Davis,  
c/o Stephen Ward Town Planning  
& Development Consultants Limited,  
Jocelyn House,  
Jocelyn Street,  
Dundalk,  
Co. Louth.



**RE: Ref. S5 2019/37**

**Re: Application for Declaration of "Exempted Development" Part 1, Section 5, Planning & Development Act 2000 (as amended) whether (1) Use of Building 1 as office/meeting room, (2) Use of Building 2 as office, (3) Use of Building 3 for the repair and storage of machinery, (4) Use of Building 4 for the storage of dry goods, (5) Use of Building 5 for repair and storage of machinery, (6) Use of Building 6 for storage of dry goods at Collenbeg, Collon, Co. Louth is or is not exempt development within the meaning of the Planning and Development Act, 2000 (as amended)**

Dear Sir/Madam,

I wish to acknowledge receipt of your application received on 29<sup>th</sup> August, 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:-

(1) Use of Building 1 as office/meeting room, (2) Use of Building 2 as office, (3) Use of Building 3 for the repair and storage of machinery, (4) Use of Building 4 for the storage of dry goods, (5) Use of Building 5 for repair and storage of machinery, (6) Use of Building 6 for storage of dry goods at Collenbeg, Collon, Co. Louth is or is not exempt development

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





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

- (a) Section 3 of the Planning and Development Act, 2000 (as amended),
- (b) Article 9 (1)(a)(i) of the Planning and Development Regulations 2001 (as amended)
- (c) Article 9 (1)(a)(vi) of the Planning and Development Regulations 2001 (as amended)

**AND WHEREAS** *Louth County Council has concluded: -*

The specified works fall under the definition of development but are **not exempted development**


**In Summary**

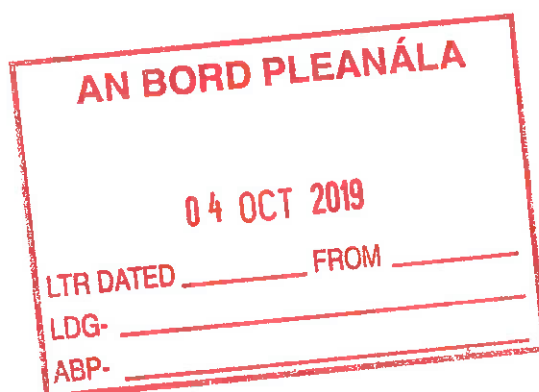
**A Declaration of Exemption is hereby REFUSED for (1) Use of Building 1 as office/meeting room, (2) Use of Building 2 as office, (3) Use of Building 3 for the repair and storage of machinery, (4) Use of Building 4 for the storage of dry goods, (5) Use of Building 5 for repair and storage of machinery, (6) Use of Building 6 for storage of dry goods at Collenbeg, Collon, Co. Louth.**

**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  
Planning Section.





**Louth County Council  
Planner's Report  
Section 5 Declaration**

**Planning Ref:** S5-2019/37  
**Applicant's Name:** Barry Davis  
**Type of Application:** Section 5 Declaration  
**Site Location:** Collenbeg, Collon, Co Louth  
**Date:** 18/09/19



**1.0 SITE LOCATION & DESCRIPTION**

The site is located within Development Zone 6 and section 3.10.6 CDP sets out the following strategic objective:

*"To preserve and protect the heritage and cultural landscape of the UNESCO World Heritage Site of Brú na Bóinne, the UNESCO (Tentative) World Heritage Site of Monasterboice and the Site of the Battle of the Boyne".*

**3.0 DECLARATION SOUGHT:**

Request for Declaration under Section 5 of the Planning and Development Act 2000 (as amended) with respect to whether specified works as described at Collon Beg, Collon, County Louth are or are not development or are or are not exempted development.

**4.0 PLANNING HISTORY**

**18/495:** Permission and Retention for development to consist of a) Retention of extension to existing building for general storage, b) Retention and completion of partially constructed agricultural store for use by B. Davis farm, c) Retention of hard core area towards the southern part of the site for parking of vehicles and machinery. Vehicular access is via the existing permitted and constructed access road permitted under P.A. Ref. No. 07/1509 of the L2295 road. The application includes all associated site development works and boundary treatment.

Refused 10/08/18

<u>05179</u>	APPLICATION FINALISED	R	21/02/2005 Monday	Richard Davis	Collonbeg Collon Co Louth	(P) Change of use from agricultural machinery yard
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**AN BORD PLEANÁLA**  
**04 OCT 2019**  
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& store to store and yard for the repair, service, storage & sale of machinery

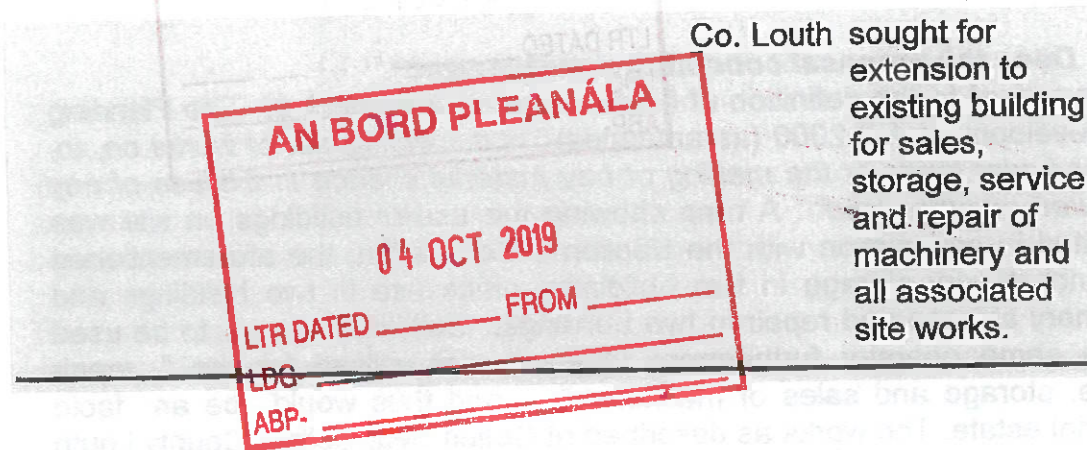
061090 APPLICATION FINALISED R 08/08/2006 Richard Collonbeg Tuesday Davis Collon

(P) For change of use existing agricultural machinery yard and store to store and yard for repair service, storage and sales of machinery, also permission for relocation of access lane to the site including formation of new entrance gates.

071509 APPLICATION FINALISED C 06/09/2007 Richard Collonbeg Thursday Davis Collon Co Louth

(P) change of use of existing agricultural machinery yard and store to store and yard for repair service, storage and sales of machinery, conversion of two stone buildings to office accommodation and stores. Yard to be accessed via existing entrance and lane

17643 WITHDRAWN 29/08/2017 Marie Collonbeg Tuesday Davis Collon Retention permission



## 5.0 LEGISLATIVE CONTEXT

### **The Planning and Development Act 2000 (As amended)**

Section 3 of the Planning and Development Act 2000 (as amended) provides the interpretation for the purpose of the Act:

*Section 2 of the Act- Development has the meaning assigned to it by Section 3 and "develop" shall be construed accordingly"*

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

*Section 3 of the Act-*

*"the carrying out of works on, in over or under land of any material change in the use any structure or other land".*

### **Planning and Development Regulations (2001) (as amended)**

Article 9(1) (a) of the Planning and Development 2001 (as amended) sets out a number of restrictions on development that would otherwise be exempted development under the provisions of Article 6 of the Regulations:

(i) Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

(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 development plan for the area in which the development is proposed or, pending the variation of a development plan or making of a new development plan, in the draft variation of the development plan or the draft development plan

## 6.0 ASSESSMENT:

04 OCT 2008

LTR DATED

LDG:

APP:

(i) **Does the proposal constitute development:** ~~Yes~~  
 Having regard to the definition of development in Section 3 of The Planning and Development Act 2000 (as amended) "~~the carrying out of works on, in, over or under lands or the making of any material change in the use of any structures or other land~~". A map showing the use of buildings on site was submitted in conjunction with the Section 5 declaration, the aforementioned uses include dry storage in two buildings, office use in two buildings and machinery storage and repair in two buildings. Buildings are not to be used by the same operator furthermore they are not utilised for the "...repair service, storage and sales of machinery". and thus would be an facto industrial estate. The works as described at Collen Beg, Collon, County Louth constitute a material change of change and are considered to be development.

(ii) **Does the proposal constitute exempt development:**

As per Paragraph 6(i) above the works as described at Collen Beg, Collon, County Louth constitute a material change of use and therefore are not considered to be exempt development.

(iii) **Does the proposal contravene a condition attached to a permission?**

The parent permission (planning reference 07/1509) was granted by Louth County Council on the 04/02/2008 subject to a number of conditions, including Conditions 1 and 9 which are described below:

Condition 1: Subject to the conditions below, the proposed development is to be carried out in strict conformity with the lodged plans and specifications submitted to the Planning Authority on the 06/12/07.

Condition 9 states: Proposed development to be used in accordance with specification in application and not for any other industrial, business or commercial purpose".

With regard to Condition 1 the site outlined in red submitted in conjunction with the Section 5 Declaration (Ref 2019/37 ) is larger than the site outlined in red granted under parent permission 07/1509. Thus the development has not been carried out in strict conformity with lodged plans and specifications.

Furthermore, under the parent permission (reference 07/1509) Further Information was requested regarding the type of machinery to be stored on the site and in a letter submitted to the Planning Authority dated 6<sup>th</sup> December 2007 it was stated that agricultural machinery (already assembled) was to be stored thereon. The works specified in the Section 5 declaration do not relate to agricultural machinery therefore the development has not been carried out in strict conformity with lodged plans and specifications.

With regard to Condition 9 the works specified in the Section 5 declaration do not relate to the "...repair service, storage and sales of machinery", instead

they relate to a de facto industrial estate. It is clear that the works described contravene both Condition 1 and 9 of 07/ 1507 and are therefore not considered to be exempted development. *The works specified in the Section 5 Declaration therefore contravene Article 9 (i) of the Planning and Development Regulations 2001 (as amended).*

***(iv) Does the proposal 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 development plan for the area***

The work specified at Collon Beg, Collon, County Louth would materially contravene Policies HER 27 and HER 31 of the Louth County Development Plan 2015-2021 in that the cumulative impact of permitting retention of this development, which is large and industrial in scale, design and layout, in conjunction with the existing large scale industrial development and infrastructure on this site is inconsistent with the Development Assessment Criteria for Development Zone 6, the objective of which is: *To maintain the Outstanding Universal Value (OUV) of the Tentative Monasterboice World Heritage Site in order to protect the landscape and other values contributing to the site's nomination and ensure that this is not damaged in any way*. The works specified in the Section 5 Declaration therefore contravene Article 9 (vi) of the Planning and Development Regulations 2001 (as amended).

## 7.0 CONCLUSION:

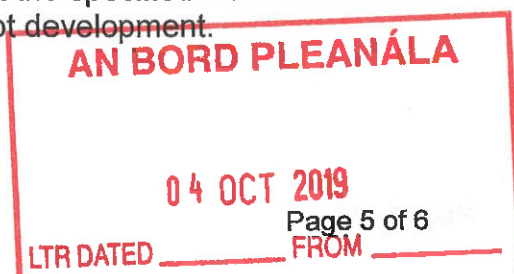
The Planning Authority in exercise of the powers under Section 5 of the 2000 Act (as amended) hereby decides in respect of the specified works that a material change of use has taken place and therefore they cannot be considered exempted development under:

- *Section 3 of the Act of the Planning and Development Act 2000 (as amended)*

Furthermore, the Planning Authority in exercise of the powers under Section 5 of the 2000 Act hereby decides that the specified works are not exempt under Article 6, Part 2 of the Planning & Development Regulations 2001 (as amended) as the specified works contravene:

- *Article 9 (1) (a) (i) of the Planning and Development Regulations 2001 (as amended).*
- *Article 9 (1) (a) (vi) of the Planning and Development Regulations 2001 (as amended).*

I conclude that the specified works fall under the definition of development but are not exempt development.



PP. *Ciara Doran*  
Ciara Doran  
Assistant Planner  
Date:

*Brian Brooks*  
Brian Brooks  
Executive Planner  
Date: 18/9/19

*Frank Pentony*  
Frank Pentony  
Director of Services  
Date: 19/09/19

AN BORD PLEANÁLA  
04 OCT 2019  
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AN BORD PLEANÁLA  
04 OCT 2019  
Page 6 of 6  
LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_



**LOUTH COUNTY COUNCIL**

Planning Section, County Hall, Millennium Centre, St Alphonsus Road, Dundalk  
Tel: 042/9335457 Fax: 042/9320080

**PLANNING AND DEVELOPMENT ACT, 2000**

**NOTIFICATION OF GRANT OF PERMISSION**

TO: Richard Davis  
c/o Mr Aidan Geraghty  
Greenlanes  
Dromin  
Dunleer  
Co Louth

04/02/2008

SCANNED

Register Reference Number: 071509

Date Application Received: 06/09/2007

**Description of Development:** Permission for change of use of existing agricultural machinery yard and store to store and yard for repair service, storage and sales of machinery, conversion of two stone buildings to office accommodation and stores. Yard to be accessed via existing entrance and lane

**Application Type:** PERMISSION

**Name and Address of Applicant:**

Richard Davis  
Shanlis  
Ardee  
Co Louth

**Location Address:**

Collonbeg  
Collon  
Co Louth

Permission is hereby granted for the development described above subject to the 11 conditions set out in the Schedule attached.

**Mary Jennings**  
**Senior Staff Officer**

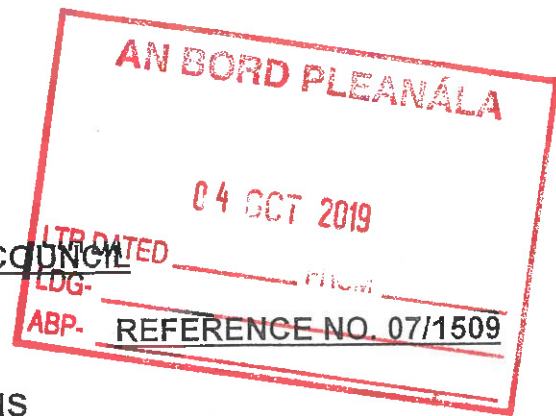
**NOTES**

1. Unless otherwise specified in this decision and subject to certain exceptions, a permission will, on the expiration of a period of five years beginning on the date of grant, cease to have effect as regards:  
(a) in case the development is not commenced during that period, the entire development, and  
(b) in case the development is commenced during that period, so much of the development as is not completed within that period.
2. A grant of Outline Permission will cease to have effect on the expiration of a period of three years beginning on the date of grant, unless a subsequent application for permission has been made within that period.
3. A grant of Outline Permission does not authorise the carrying out of any development. A subsequent grant of Permission must be obtained before development commences.





LOUTH COUNTY COUNCIL



CONDITIONS

1. Subject to the conditions below, the proposed development is to be carried out in strict conformity with the lodged plans and specifications submitted to the Planning Authority on the 6/12/07.

**Reason:** To prevent unauthorised development.

2. Surface/ storm water shall be disposed of within the boundaries of the site and shall not be permitted to flow onto the public road or adjoining property.

**Reason:** In the interests of orderly development.

3. Full visibility shall be made available for 150m on either side of the entrance from a point 4.5m back in from the edge of the road carriageway over a height of 1.05m above road level, in accordance with the revised drawings received on the 6<sup>th</sup> Dec 2007.

**Reason:** In the interest of traffic safety.

4. a) Only that portion of the roadside hedgerow which must be lowered or uprooted to provide adequate sight distances should be removed. All other trees and hedgerows bounding this site to be permanently retained in this development, to be reinforced with additional planting and to be protected from damage at all times, particularly during building operations.

b) New boundaries of site and line of recessed entrance to be of stained wood, backplanted with trees and shrubs of species native to the area to form a naturalised hedgerow similar to existing hedgerows in the vicinity. Species to include thorn, beech, oak, ash, hazel, sycamore and holly.

c) Planting as required above to be carried out in the first planting season following commencement of building operations and permanently retained thereafter. Any plant which fails in the first planting season to be replaced.

**Reason:** To protect the amenity of the area.

5. Entrance gates shall be set back at least 9m from the road edge, wing walls or fences shall be splayed back at an angle of 45 degrees and gates shall open inward. The maximum gradient of the access shall not be greater than 1;10 over the first 7m.

**Reason:** In the interest of traffic safety.



- 6.1 The hours of operation shall be from 8:00am to 6:00pm Monday to Saturday.
- 6.2 No trade/industrial effluent resulting from any operation associated with the development shall be discharged to surface or ground waters or sewer unless licenced under and in accordance with the provisions of the Local Government (Water Pollution) Acts 1977 and 1990.
- 6.3 The developer shall provide facilities for the storage /collection/segregation of recyclable wastes/materials arising on the development. At least six months prior to the commencement of the development the developer shall submit to the planning authority for its approval a waste management plan detailing facilities for the recycling of waste.
- 6.4 The development shall be operated such that there will be no emissions of malodours, fumes, gases, dust or other deleterious materials such as would give reasonable cause for annoyance to any person in any residence in the vicinity of the development.
- 6.5 Uncontaminated surface waters from roof of development shall be piped separately in a sealed system to soakaway(s) or waters.
- 6.6 The developers and/or any person given control or custody of the developments shall ensure that surface and ground waters are adequately protected from contamination by stored materials and/or waste temporarily stored on Development prior to disposal.
- 6.7 Waste shall not be disposed of by open burning.
- 6.8 Non hazardous, non re-recoverable wastes shall be disposed of to a landfill site managed licensed in accordance with the Waste Management Act, 1996, as amended. Waste shall only be conveyed by a permitted waste contractor in accordance with the appropriate National and European Legislation and Protocols.
- 6.9 Hazardous Waste arising on the development including waste oils arising on the development shall not be disposed of to waters or drainage system or to soil, but shall be disposed of in accordance with the Waste Management (Hazardous Waste) Regulations 1998 and to a facility licensed under Waste Management Act, 1996, as amended.

**ANNED**

**AN BORD PLEANÁLA**

**04 OCT 2019**

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

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REFERENCE NO: 07/1509

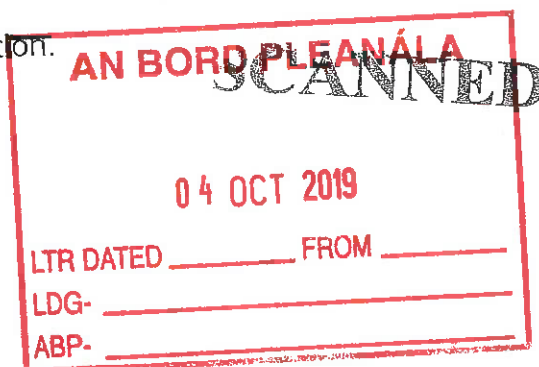
6.10 The sound levels attributable to all on site operations associated with the development outside of the nearest noise sensitive location(s) to the development shall not exceed the following levels:-

- (i) Leq (30 mins.) of 55 dB(A) between the hours of 08.00 and 22.00
- (ii) Leq (30 mins.) of 40 dB(A) between the hours of 22.00 and 08.00.

No pure tones or impulsive characteristics shall be audible outside of any noise sensitive location(s) in the vicinity of the development.

- 6.11
- (a) The developers shall, if directed by the Planning Authority, monitor and record noise levels – Leq’s and any other levels which may be requested by the Planning Authority (L max etc):
  - (b) The developer shall if directed by the Planning Authority, monitor and record the total dust emissions arising from all on site operations associated with the proposed development.
  - (c) The number and locations of the monitoring and recording stations for sound and dust deposition necessary to comply with the requirements of Part (a) and (b) of this condition shall be in accordance with the requirements of the Planning Authority for such monitoring of sound and dust deposition.
  - (d) The Planning Authority shall be afforded access at all reasonable times in order to inspect, examine and check or to have inspected, examined and checked, all apparatus and equipment used or required to carry out monitoring of noise.
  - (e) The developers shall pay a sum of money to Louth County Council, if demanded, as a contribution towards the costs incurred by the said Council in carrying out, or in having carried out, check monitoring and recording of any, or all, of the matters required to be monitored and recorded by part (a) and (b) of this condition. The amount of contribution and the arrangements for payment of such contribution shall be as agreed between the developers and the Planning Authority.

Reason: To prevent pollution.







REFERENCE NO: 07/1509

7. In accordance with the Council's Development Contribution Scheme 2004 made under the provisions of section 48 of the Planning and Development Act 2000 the developer shall pay a contribution to the Planning Authority, in the amount specified below (or such increased amount in accordance with the changes on an annual basis to the Wholesale Price Index for building and construction published by the Central Statistics Office) towards the costs already incurred or to be incurred by the Planning Authority on the provision of each of the public facilities listed below, which will benefit development in the area of the Planning Authority. Unless otherwise agreed with the Planning Authority before development is commenced the said contribution shall be paid in full before such commencement.-

Garage:

- a) Road improvements -  $\text{€}20.95 \text{ euro} \times 361.5 \text{ sqm} = (\text{€}7573.40) / 2 = \text{€}3787$
- b) Water -  $\text{€}14.00 \times 361.5 \text{ sqm} = (\text{€}5061).00 / 2 = \text{€}2530$
- c) Community, recreational and amenity -  $\text{€}11.01 \times 361.5 \text{ sqm} = (\text{€}3980.12) / 2 = \text{€}1991.00$

General commercial (office area):

- a) road improvements -  $\text{€}26.18 \times 105 \text{ sqm} = (\text{€}2748.90) / 2 = \text{€}1374$
- b) water -  $\text{€}17.51 \times 105 \text{ sqm} = (\text{€}1838.5) / 2 = \text{€}919$
- c) community, recreation and amenity -  $\text{€}13.78 \times 105 \text{ sqm} = \text{€}1446.90 / 2 = \text{€}723$

**Reason:** The provision of these facilities in the area will facilitate the proposed development and it is considered reasonable that the developer should contribute towards their cost.

8. The proposed development shall not commence until such time as the applicant has been granted planning permission for the installation of a waste water treatment system on site.

**Reason:** In the interest of public health.

9. The proposed development shall be used in accordance with that specified in the application and not for any other industrial, business or commercial purpose.



SCANNED



REFERENCE NO: 07/1509

**Reason:** To protect the amenity of the area.

10. No dust, mud or debris from the site shall be carried onto or deposited on the public roads. Public roads and footpaths in the vicinity of the site shall be maintained in a tidy condition by the developer during the construction phase.

**Reason:** In the interest of the amenities of the area and in the interests of orderly development.

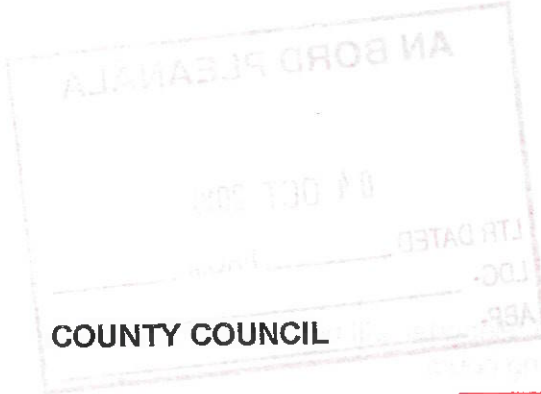
11. During the course of construction work the developer shall provide on site a covered skip or other suitable receptacle for the deposit therein of all rubbish, litter, paper, packaging, rubble and other such materials arising from the works and shall ensure that the site and its environs are maintained at all times in a clean and tidy condition.

**Reason:** In the interests of the visual amenity of the area.

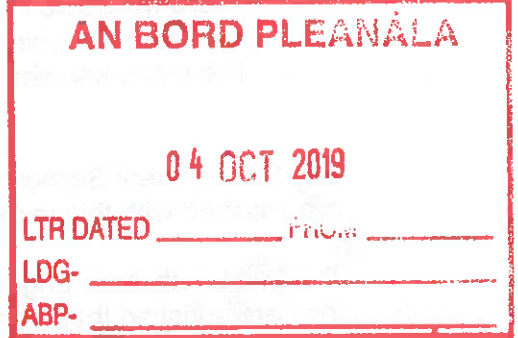


SCANNED





**Planner's Report**



**Applicant's Name: Richard Davis**

**Planning Ref ; 07/1509**

**Date of site inspection: 19/10/07**

**Site Notice**

**Site notice displayed and in accordance with regulations; yes**

**Type of application: Permission**

**Description of development: Change of Use of existing agricultural machinery yard and store to yard/ store for repair, service, storage and sales of machinery.**

**Site Location: Collonbeg, Collon.**

**Date: 28/12/07**

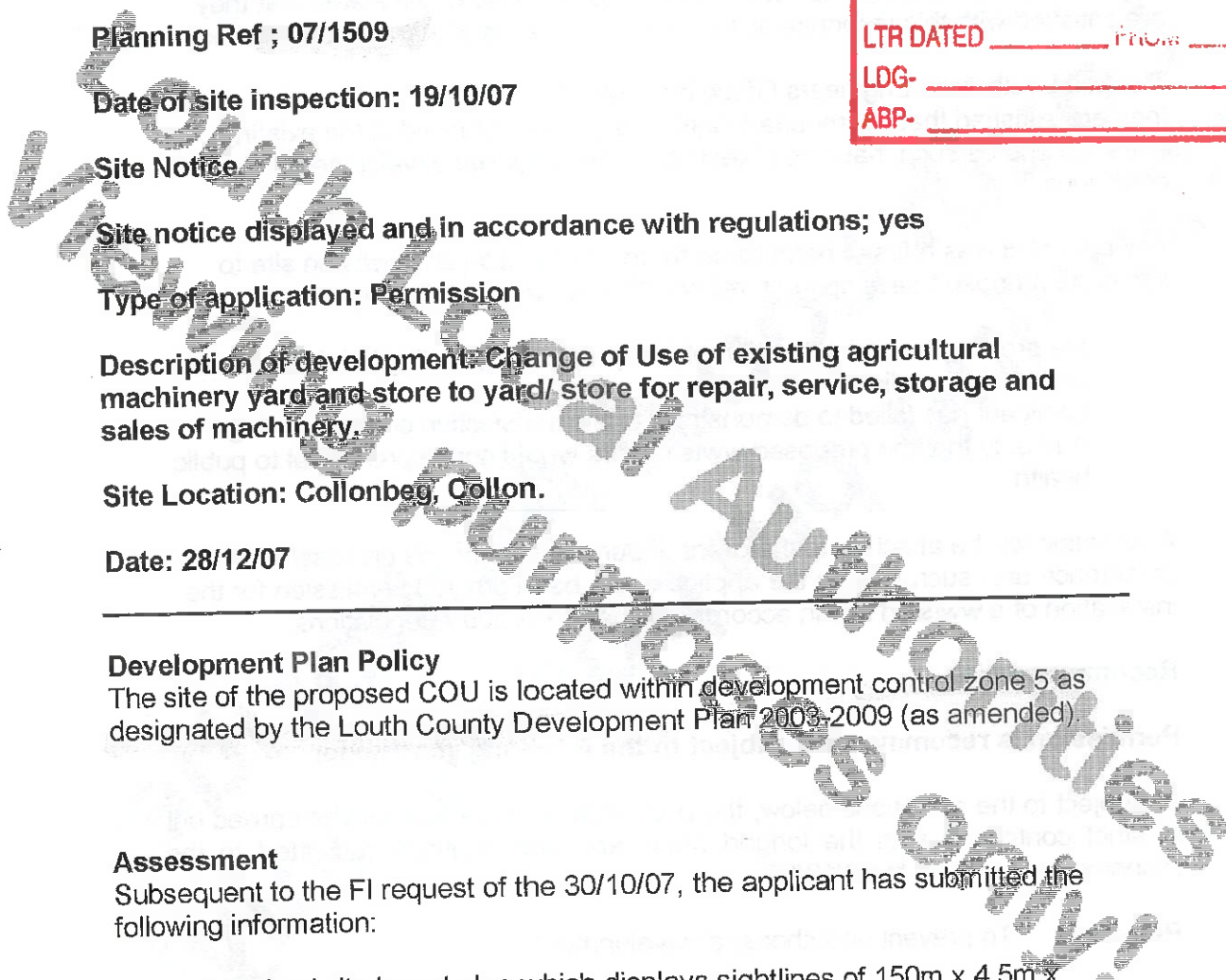
**Development Plan Policy**

The site of the proposed COU is located within development control zone 5 as designated by the Louth County Development Plan 2003-2009 (as amended).

**Assessment**

Subsequent to the FI request of the 30/10/07, the applicant has submitted the following information:

- A revised site layout plan which displays sightlines of 150m x 4.5m x 1.05m at the existing agricultural entrance to the site. A legal agreement from the adjoining landowner has been submitted to obtain the required sightlines.
- A revised plan displaying the existing road drainage taken to taken to the existing roadside ditches
- The applicant gives details relating to the type of machinery to be stored on the premises ie- agricultural.



**AN BORD PLEANÁLA**

**04 OCT 2019**

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

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- A forklift and teleporter will be used externally within the development during working hours.
- There will be no increase in noise levels on site.
- A layout plan which displays dwellings in the vicinity of the site.
- The types and amt of waste to arise from the development.

The Environment Section has submitted a report on file which states that they are satisfied with this response and as such, recommend a grant of permission.

The Mid Louth Area Engineers Office has submitted a report on file which states they are satisfied that the required sightlines can be achieved at the existing entrance and as such, have no objection to the proposed development subject to conditions.

The applicant was refused permission for the installation of a wwts on site to serve the proposed development, ref no; 07/1699 for the following reasons:

- the proposed development would be premature pending the determination of planning application 07/1509.
- applicant has failed to demonstrate to the satisfaction of the Planning Authority that the proposed wwts on site would not be prejudicial to public health.

A condition will be attached to the grant of permission that the proposal shall not commence until such time as the applicant has been granted permission for the installation of a wwts on site in accordance with EPA 2000 Regulations.

### **Recommendation**

**Permission is recommended subject to the following conditions:**

1. Subject to the conditions below, the proposed development is to be carried out in strict conformity with the lodged plans and specifications submitted to the Planning Authority on the 6/12/07.

**Reason:** To prevent unauthorised development

2. Surface/ storm water shall be disposed of within the boundaries of the site and shall not be permitted to flow onto the public road or adjoining property.

**Reason:** In the interests of orderly development.

3. Full visibility shall be made available for 150m on either side of the entrance from a point 4.5m back in from the edge of the road carriageway over a height of

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1.05m above road level, in accordance with the revised drawings received on the 6<sup>th</sup> Dec 2007.

**Reason:** In the interest of traffic safety.

4. a) Only that portion of the roadside hedgerow which must be lowered or uprooted to provide adequate sight distances should be removed. All other trees and hedgerows bounding this site to be permanently retained in this development, to be reinforced with additional planting and to be protected from damage at all times, particularly during building operations.

b) New boundaries of site and line of recessed entrance to be of stained wood, backplanted with trees and shrubs of species native to the area to form a naturalised hedgerow similar to existing hedgerows in the vicinity. Species to include thorn, beech, oak, ash, hazel, sycamore and holly.

c) Planting as required above to be carried out in the first planting season following commencement of building operations and permanently retained thereafter. Any plant which fails in the first planting season to be replaced.

**Reason:** To protect the amenity of the area.

5. Entrance gates shall be set back at least 9m from the road edge, wing walls or fences shall be splayed back at an angle of 45 degrees and gates shall open inward. The maximum gradient of the access shall not be greater than 1;10 over the first 7m.

**Reason:** In the interest of traffic safety.

6. As per Environment report.

7. In accordance with the Council's Development Contribution Scheme 2004 made under the provisions of section 48 of the Planning and Development Act 2000 the developer shall pay a contribution to the Planning Authority, in the amount specified below (or such increased amount in accordance with the changes on an annual basis to the Wholesale Price Index for building and construction published by the Central Statistics Office ) towards the costs already incurred or to be incurred by the Planning Authority on the provision of each of the public facilities listed below, which will benefit development in the area of the Planning Authority. Unless otherwise agreed with the Planning Authority before development is commenced the said contribution shall be paid in full before such commencement.-

Garage. 50% COU.

a) Road improvements - €20.95 euro x 361.5 sqm = 7573.40 euro / 2= 3787euro.

**AN BORD PLEANALA**

**04 OCT 2019**

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- b) Water - €14.00 x 361.5sqm = 5061 euro/ 2 = 2530 euro
- c) Community, recreational and amenity €14.00 x 361.5sqm = 5061 euro/2 = 2530 euro

Generail commercial (office area). 50% COU.

- a) road improvements - 26.18 euro x 105sqm = 2748.90 euro/ 2 = 1374 euro.
- b) water - 17.51 euro x 105sqm = 1838.5 euro/2 = 919 euro.
- c) community, recreation and amenity - 13.78 euro x 105sqm = 1446.90 euro / 2 = 723 euro.

**Reason:** The provision of these facilities in the area will facilitate the proposed development and it is considered reasonable that the developer should contribute towards their cost.

8. The proposed development shall not commence until such time as the applicant has been granted planning permission for the installation of a waste water treatment system on site.

**Reason:** In the interest of public health.

9. The proposed development shall be used in accordance with that specified in the application and not for any other industrial, business or commercial purpose.

**Reason:** To protect the amenity of the area.

10. No dust, mud or debris from the site shall be carried onto or deposited on the public roads. Public roads and footpaths in the vicinity of the site shall be maintained in a tidy condition by the developer during the construction phase.

**Reason:** In the interest of the amenities of the area and in the interests of orderly development.

11. During the course of construction work the developer shall provide on site a covered skip or other suitable receptacle for the deposit therein of all rubbish, litter, paper, packaging, rubble and other such materials arising from the works



and shall ensure that the site and its environs are maintained at all times in a clean and tidy condition.

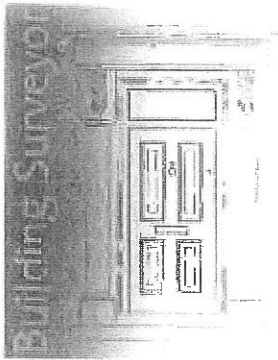
**Reason:** In the interests of the visual amenity of the area

Brian Brooks  
Acting Exe Planner.

South Local Authorities  
Viewing purposes only!

AN BORD PLEANÁLA  
04 OCT 2019  
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APR.



# Aidan Geraghty Building Surveyor

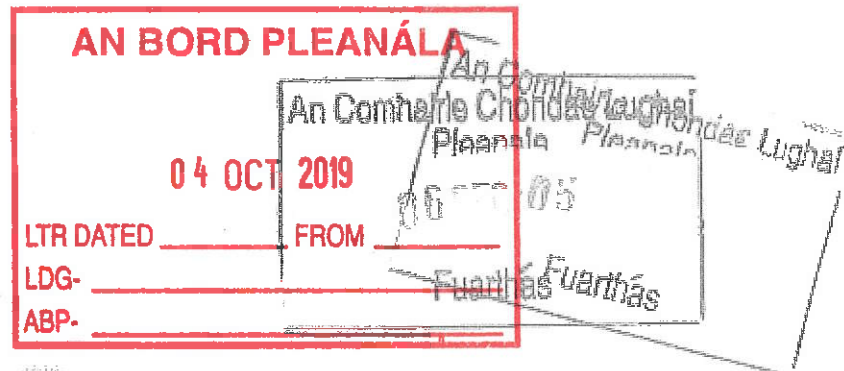
Greenlanes, Dromin, Dunleer, Co. Louth

Tel: 041-6862945 Fax: 041-6862951 Mobile: 086-8611478

E-mail: appgeraghty@eircom.net

6 December 2007

LOUTH COUNTY COUNCIL  
PLANNING SECTION  
COUNTY HALL  
DUNDALK



RE : PERMISSION FOR CHANGE OF USE OF EXISTING AGRICULTURAL MACHINERY YARD AND STORE TO STORE AND YARD FOR REPAIR SERVICE, STORAGE AND SALES OF MACHINERY, CONVERSION OF TWO STONE BUILDINGS TO OFFICE ACCOMMODATION AND STORES, YARD TO BE ACCESSED VIA EXISTING ENTRANCE AND LANE AT COLLONBEG, COLLON, CO LOUTH

REF NO 071509 FOR RICHARD DAVIS

Dear Sirs,

I refer to your letter dated 30/10/2007 requesting further information. I now wish to respond as follows:

1-4 Further to discussions with Alan Wilson of the area engineers office, it is proposed to use the existing lane way as the entrance to the proposed development. However, in order to achieve the necessary sight lines of 150M x 4.50M x 1.05M it is necessary to remove some hedge row looking north from the entrance and to the west side of the road. I submit a legal agreement with the landowner, Nicholas Flynn to carry out such works.

Please note, only that portion of hedge to be removed in order to achieve sight lines will be taken down, a post and wire stock proof fence will be erected together with native hedge to inside. The remaining hedge row that is subject of the agreement will be trimmed.

I refer to the attached revised site plan, both vertical and horizontal sight distance are shown, both can be achieved.

5 I refer to the revised 1/500 site plan, the existing road drainage is taken to the existing roadside ditches shown, there is an existing under ground concrete pipe (shown on 1/500 plan) that takes road drainage from the west side drainage ditch to the east side. The roadside drain leads into the existing drain located on the access lane to the proposed development and then on to the river Mattock.

6 Agricultural machinery, already assembled will be stored at the premises. There will be some minor repairs carried out at the premises. There will be no spray painting or vehicle finishing at the premises.

7 A forklift and teleporter will be the only machinery used externally within the development during normal



operations

8 I attach 4 copies of 1/2500 scale map showing dwellings located in the area of the site. No dwelling is within 100 metres of the site.

9 Waste to arise at the development include

- \* cardboard -----
- \* paper wrap ----- 10kgs per week total
- \* plastic wrap -----
- \* timber pallets - 8-10 per week

All of the above are associated with packaging of machinery parts. The applicant will dispose of same by depositing at the nearest recycling depot.

\* Steel Crates 8-10 per week

To house machinery and parts will be returned to the manufacturer.

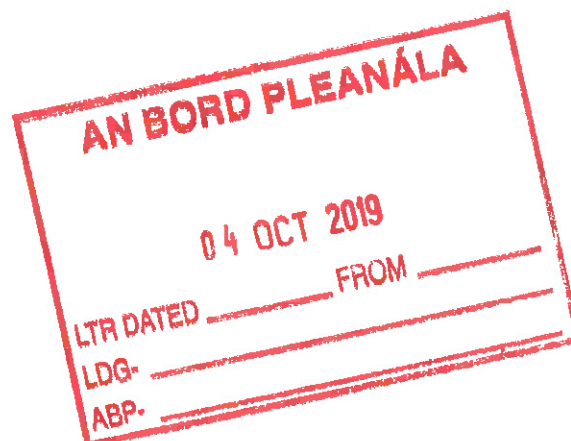
\* Waste Oil - 1000 litres per year

Will be collected by "Atlas Ireland Ltd"

10 The existing yard is a working farmyard; there will be no increase in present noise levels. No other environment impacts are envisaged.

YOURS FAITHFULLY

AIDAN GERAGHTY



Handwritten notes and stamps at the top of the page, including a date stamp: 10/10/2018.

Handwritten notes and a red rectangular stamp in the upper middle section.

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ABP- \_\_\_\_\_  
FROM \_\_\_\_\_

Surveyed 1993-2003  
 Revised 2005  
 Levelled 1981

# Rural PLACE Map

**ADAM CONSTRUCTION S.S.C.**

11th Floor, Castle View House, River Mall,  
 Swords, Co. Dublin  
 On behalf of Ordnance Survey Ireland,  
 Phoenix Park, Dublin 8

Tel: 041-4161111  
 Mobile: 087-2311478

OS LICENCE NO EN007H97  
 EARLY STAGE  
 COLLONBEG, CO. DUB.

302320  
 285005

ITM CENTRE PT COORDS  
 701957,781136

DESCRIPTION

MAP SHEETS

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 2191  
 ANMAPLOT LTD.  
 PH 8401401 FAX 8400543  
 ORDNAV SURVEY IRELAND

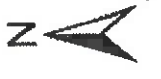


Produced by ANMAP Plot  
 Unit 3, 1st Floor, Castle View House, River Mall,  
 Swords, Co. Dublin  
 On behalf of Ordnance Survey Ireland,  
 Phoenix Park, Dublin 8

Station ellipsoid, manufacturer's equivalent  
 Ordnance Survey datum  
 Ordnance Survey Ireland  
 Survey Ireland and Government of Ireland  
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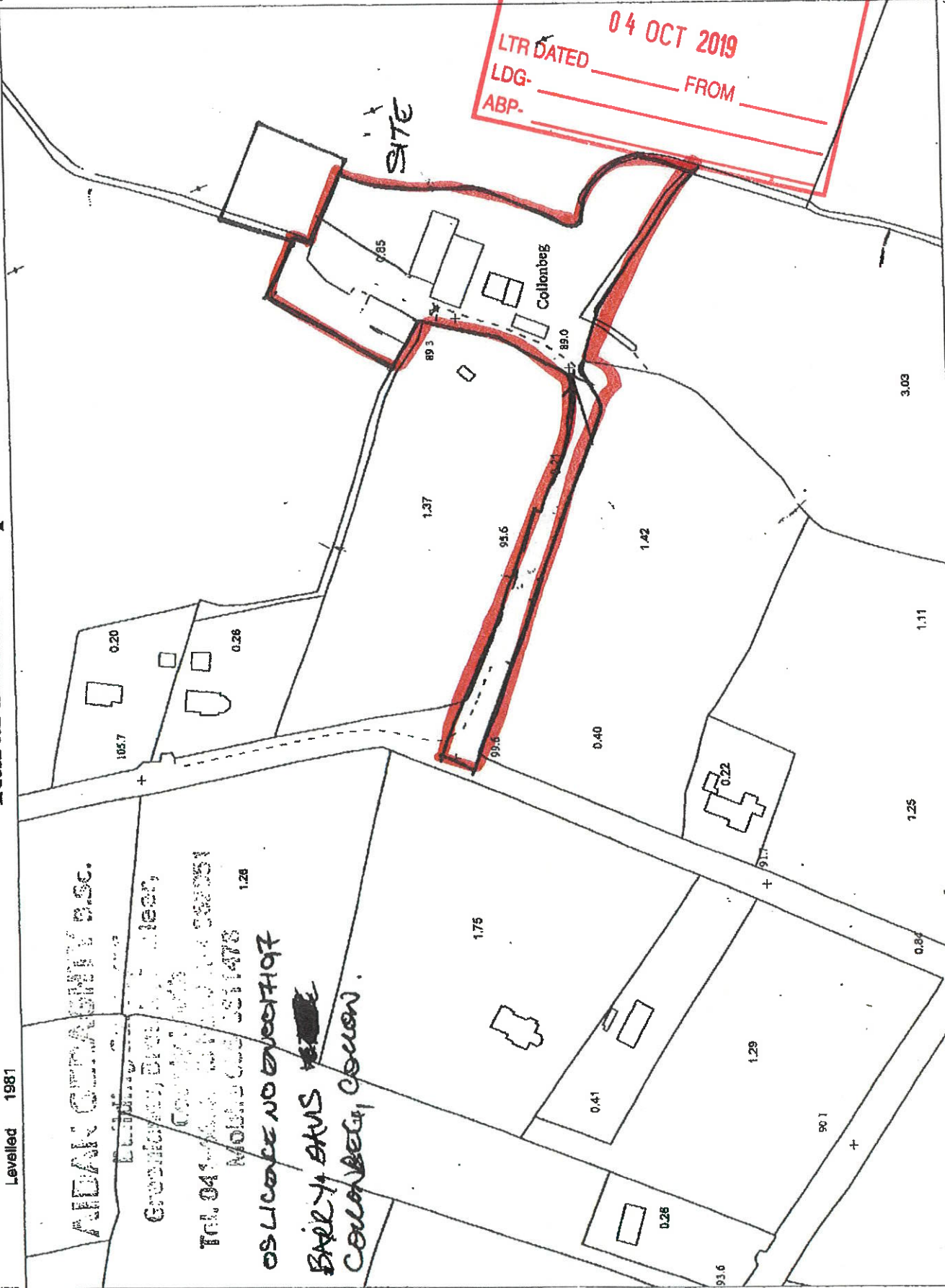
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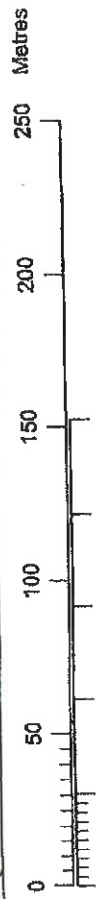


157.17-1

LTR DATED 04 OCT 2019  
 LDG- FROM  
 ABP-



Plot Ref. No. 1266551\_1\_1  
 Plot Date 13-NOV-2007



Scale:- 1:2,500  
 Scala:- 1:2,500

301737

301737





**LOUTH COUNTY COUNCIL**  
Town Hall, Crowe Street, Dundalk, County Louth A91 W20C  
Tel:042/9335457

**PLANNING AND DEVELOPMENT ACT, 2000 (as amended)**

**NOTIFICATION OF DECISION TO REFUSE**

To: Barry Davis  
c/o STEPHEN WARD TOWN PLANNING &  
DEVELOPMENT CONSULTANTS LTD  
JOCELYN HOUSE  
JOCELYN STREET  
DUNDALK

Date: 10/8/18



Planning Register Number: 18495  
Date Application Received: 27/06/2018  
Validation Received: 27/06/2018

Further Information Received:

Type of Application: RETENTION and PERMISSION

Description of Development: Permission and Retention for development to consist of  
a) Retention of extension to existing building for general storage, b) Retention and completion of  
partially constructed agricultural store for use by B. Davis farm, c) Retention of hardcore area  
towards the southern part of the site for parking of vehicles and machinery. Vehicular access is via  
the existing permitted and constructed access road permitted under P.A. Ref. No. 07/1509 of the  
L2295 road. The application includes all associated site development works and boundary  
treatment.


Name of Applicant: Barry Davis

Location of Development: Collonbeg  
Collon  
Co. Louth

Date of Decision: 10/8/18

In pursuance of the powers conferred upon it by the above mentioned Acts, The Council of the County of Louth, being the Planning Authority for the County of Louth, has decided, for the reason(s) set out in the schedule attached, to **REFUSE RETENTION PERMISSION AND PERMISSION** for the development described above.

An appeal against this decision may be made to An Bord Pleanála by any person in accordance with the instructions on the attached sheet within the time limits specified.

  
Anne D. Callan,  
Administrative Officer

<b>AN BORD PLEANÁLA</b>	
04 OCT 2019	
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LOUTH COUNTY COUNCIL

REFERENCE NO. 18/495

SCHEDULE

1. The proposal would materially contravene Policy RD 41 of the Louth County Development Plan 2015-2021 in that the applicant has failed to demonstrate that the agricultural store is a bonafide agricultural development which would be considered appropriate within Development Control Zone 6.

2. The proposal would materially contravene Policy RD 41 of the Louth County Development Plan 2015-2021 in that it is a *de facto* extension of an unauthorised industrial complex and not therefore listed as a development which would be considered appropriate within Development Control Zone 6.

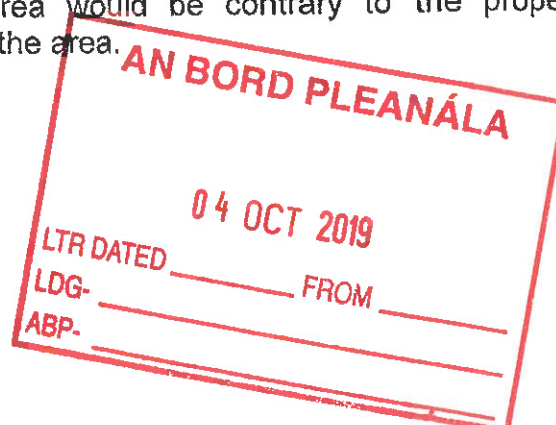
3. The proposal would materially contravene Policies RD 9 and RD 13 of the Louth County Development Plan 2015-2021 in that the development relies on visual linkage to an unauthorised development to aid integration into the landscape and cumulatively has a negative effect on the scenic amenity of the area.

4. The proposal would materially contravene Policies HER 27 and HER 31 of the Louth County Development Plan 2015-2021 in that the cumulative impact of permitting retention of this development, which is large and industrial in scale, design and layout, in conjunction with the existing large scale industrial development and infrastructure on this site is inconsistent with the Development Assessment Criteria for Development Zone 6, the objective of which is:

*To maintain the Outstanding Universal Value (OUV) of the Tentative Monasterboice World Heritage Site in order to protect the landscape and other values contributing to the site's nomination and ensure that this is not damaged in any way.*

5. The applicant has failed to demonstrate to the satisfaction of the planning authority that developments presently under consideration comply with the EPA Wastewater Treatment Manual- Treatments Systems for small communities, business, leisure centres and hotels (1999). In the absence of this information it cannot be determined that the use of the existing Waste Water Treatment System would not be prejudicial to public health.

6. The applicant has failed to demonstrate to the satisfaction of the Planning Authority that retention of the hardcore area complies with Policy WS 10 of the Louth County Development Plan 2015-2021. In the absence of this information retention of the hardcore area would be contrary to the proper planning and sustainable development of the area.



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04 OCT 2019  
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Louth County Council  
Planner Report

CE

An Comhairle Chondae Lughai  
Pleanála N.S.  
= 7 AUG 2018

Fuarthas R

Planning Ref: 18.495

Applicant(s) Name(s): Barry Davis

Date of site inspection: 13<sup>th</sup> July 2018

Site Notice: Yes

Site Notice displayed and  
in accordance with  
regulations: Yes

Type of Application: Retention and Completion

Description: Permission and Retention for development to consist of a) Retention of extension to existing building for general storage, b) Retention and completion of partially constructed agricultural store for use by B. Davis farm, c) Retention of hardcore area towards the southern part of the site for parking of vehicles and machinery. Vehicular access is via the existing permitted and constructed access road permitted under



# AN BORD PLEANÁLA

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P.A. Ref. No. 07/1509 of the L2295 road. The application includes all associated site development works and boundary treatment.

Site Location: Collonbeg, Collon, Co Louth

Report Date: 31<sup>st</sup> July 2018

Due Date: 21<sup>st</sup> August 2018

## 1.0 SITE LOCATION & DESCRIPTION

The 1.95ha site is located in the open countryside in the townland of Collon. The site is to the east side of local road L-2295-25 and is accessed via a palisade security gate and private laneway. The application site comprises of substantial yard with numerous industrial style outbuildings, hardstanding area to the south surrounded by grass banks, area to the east surrounded by palisade fencing utilised for parking vehicles as well as partially completed structure to the North. The lands to the north, east and west are identified in blue and within the landholding.

## 2.0 PLANNING HISTORY

The site is subject of an enforcement case under ref. 17/U089 relating to alleged unauthorised structure and extension to adjacent building (PA ref. 17/643).

<u>05179</u>	APPLICATION FINALISED	R	21/02/2005 Monday	Richard Davis	Collonbeg Collon Co Louth	(P) Change of use from agricultural machinery yard & store to store and yard for the repair, service, storage & sale of machinery
<u>061090</u>	APPLICATION	R	08/08/2006	Richard	Collonbeg	(P) For change of use existing

FINALISED Tuesday Davis Collon

agricultural machinery yard and store to store and yard for repair service, storage and sales of machinery, also permission for relocation of access lane to the site including formation of new entrance gates.

071509 APPLICATION FINALISED C 06/09/2007 Thursday Richard Davis Collonbeg Collon Co Louth

(P) change of use of existing agricultural machinery yard and store to store and yard for repair service, storage and sales of machinery, conversion of two stone buildings to office accommodation and stores. Yard to be accessed via existing entrance and lane

071573 INCOMPLETED APPLICATION 17/09/2007 Monday Richard Davis Collonbeg Collon Co Louth

(P) new waste water treatment unit and percolation area to replace existing septic tank

071699 APPLICATION FINALISED R 10/10/2007 Wednesday Richard Davis Collonbeg Collon Co Louth

(P) new waste water treatment unit and percolation area to replace existing septic tank

0868 APPLICATION FINALISED C 30/01/2008 Wednesday Richard Davis Collonbeg Collon Co. Louth

Permission - new waste water treatment unit and percolation area to replace existing septic tank at existing farmyard

17643 WITHDRAWN 29/08/2017 Tuesday Marie Davis Collonbeg Collon Co. Louth

Retention permission sought for extension to existing building for sales, storage, service and repair of machinery and all associated site works.

86521 APPLICATION FINALISED C 01/01/1986 Wednesday RICHARD DAVIS COLLONBEG COLLON CO. LOUTH

ERECTION OF A SILO BASE AND EFFLUENT TANK

9445 APPLICATION FINALISED R 28/01/1994 Friday RICHARD DAVIS COLLONBEG COLLON CO. LOUTH

RETENTION OF C.O.U. OF AGRI. BUILDING & PART OF FIELD FOR GAS TANK REPAIR ETC., BULK TANK STORAGE

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Of particular note are the following Planning Applications:

07/1509: Parent Permission for the site. Condition 9: The proposed development shall be used in accordance with that specified in the application and not for any other industrial, business or commercial purpose.

17/578: Retention permission and completion of works sought for the following: Grain and Machinery Store.

Refused 27/10/2017 for the following reasons:

1. The proposal would materially contravene Policy RD 41 of the Louth County Development Plan 2015-2021 in that it is a *de facto* extension of an unauthorised industrial complex and not therefore listed as a development which would be considered appropriate within Development Control Zone 6.
2. The proposal would materially contravene Policies RD 9 and RD 13 of the Louth County Development Plan 2015-2021 in that it relies on visual linkage to an unauthorised development to aid integration into the landscape and cumulatively has a negative effect on the scenic amenity of the area.
3. The proposal would materially contravene Policies HER 27 and HER 31 of the Louth County Development Plan 2015-2021 in that the cumulative impact of permitting retention of this development, which is large and industrial in scale, design and layout, in conjunction with the existing large scale industrial development and infrastructure on this site is inconsistent with the Development Assessment Criteria for Development Zone 6, the objective of which is:

*To maintain the Outstanding Universal Value (OUV) of the Tentative Monasterboice World Heritage Site in order to protect the landscape and*



other values contributing to the site's nomination and ensure that this is not damaged in any way.

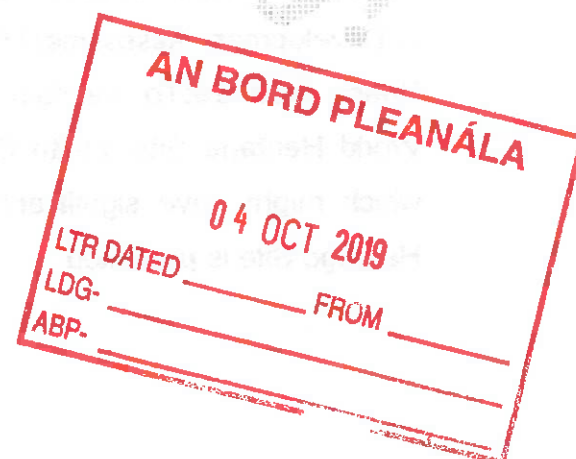
### 3.0 PROPOSED DEVELOPMENT

The 3 main components of this development are as follows:

1. Retention of extension to existing building for general storage.
  - Located to NE of existing building.
  - c.26m wide, 26m deep and 5.8m high.
  - Total stated floor area of 300sq.m
  - Walls finished in concrete and dark grey corrugated cladding.
  
2. Retention and completion of partially constructed agricultural store for use by B. Davis farm.
  - Detached portal steel building of c. 446 sq.m Gross Floor Area
  - The structure measures c. 31 m by c15m and has a FRL of c. 7.700m from ground level.
  - Walls finished in concrete and dark grey corrugated cladding.
  - Roof finished in dark grey corrugated cladding.
  
3. Retention of hardcore area towards the southern part of the site for parking of vehicles and machinery.
  - Hatched area on site layout plan indicated area for parking of vehicles and machinery.
  - Total Stated area of 2793sq.m.

**Application is accompanied by:**

- Planning Statement
- Screening Report for Appropriate Assessment
- Landscape and Visual Impact Assessment Report



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**4.0 DEVELOPMENT PLAN & POLICY CONTEXT**

The site is located within Development Zone 6 and section 3.10.6 CDP sets out the following strategic objective:

*To preserve and protect the heritage and cultural landscape of the UNESCO World Heritage Site of Brú na Bóinne, the UNESCO (Tentative) World Heritage Site of Monasterboice and the Site of the Battle of the Boyne.*

**Policy RD 41:** To permit only limited development appropriate to these heritage and cultural landscapes including only essential resource and infrastructure based developments and developments necessary to sustain the existing local rural community. Such development would include limited one-off housing, agricultural developments, extensions to existing authorised uses and farms, appropriate farm diversification projects, tourism related projects (excluding holiday homes), active recreational amenities such as pedestrian and cycle paths, equestrian trails, ecological corridors, small scale ancillary recreational facilities, and renewable energy schemes.

Policies applicable to all developments within Zone 6:

**Policy HER 26:** To protect the ridgeline to the north which frames the views Map 5.13 within and from the World Heritage Site of Brú na Bóinne from visually intrusive and inappropriate development, subject to the Development Assessment Criteria set out in Section 5.9.7 and using view-shed analysis as a tool to guide and inform development management.

**Policy HER 27:** To require that all development within Development Zone 6 be subject to Development Assessment Criteria set out in Section 5.9.7.

**Policy HER 29:** To maintain the Outstanding Universal Value of the Brú na Bóinne World Heritage Site, Louth County Council will seek to ensure that no development which might have significant, deleterious impacts upon the character of the World Heritage Site is permitted.

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**Relevant Policies in relation to Agricultural Developments:**

**Policy RD 9:** To encourage and facilitate agricultural development whilst ensuring that such development does not result in a negative effect on the scenic amenity of the countryside.

**Policy RD 13:** To ensure that agricultural buildings are designed and appropriately sited to integrate into the landscape. Where new agricultural developments or extensions to existing authorised agricultural developments are proposed, it will be a requirement that the development is well screened by trees and hedgerows and of a palette which permits the structure to satisfactorily blend into its surroundings.

**Policies relevant to industrial and commercial developments:**

**Policy EDE 14:** To comply with development management guidelines for industrial and commercial developments as set out in Section 6.3 above unless otherwise provided for in a local area plan.

Other material considerations to this proposal include:

- Appropriate Assessment of Plans and Projects in Ireland (2009)
- National Spatial Strategy (2002)

**5.0 SUBMISSIONS/OBSERVATIONS**

No submissions/observations have been made in respect of the application within the statutory timeframe

**6.0 EXTERNAL/PREScribed BODIES**

Not referred to any external/prescribed bodies for comment.

**7.0 INTERNAL REPORTS**

**Infrastructure:** Report dated the 18<sup>th</sup> July 2018 have no objection in principle subject to conditions. ✓

**Conservation Officer:** Report dated 25<sup>th</sup> July 2018 states that the scale and form of industrial buildings are not appropriate having regard to the sensitive cultural landscape ✓

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and impact such large scale industrial development have on the Outstanding Universal Value of this landscape. Recommend that planning permission is refused on the basis of previous application 17.758. ✓

Environment: Report dated the 10/07/18 have requested Further Information regarding location of wells, number of people employed at site, details and capacity of regarding existing treatment system and percolation area, ground water flow direction, source of drinking water, details of materials to be stored, information regarding interceptors. It is also stated that hardcore area would not acceptable.

## 8.0 PRE-PLANNING CONSULTATION

Meeting 21/02/18

Philip Maguire, Ciara Doran (Assistant Planners) Stephen Ward (Planning Consultant) and Barry Davis (Applicant). Various issues discussed however applicant to prove that existing development on site is in compliance with Condition 9 of 07/1509. DC

## 9.0 ASSESSMENT

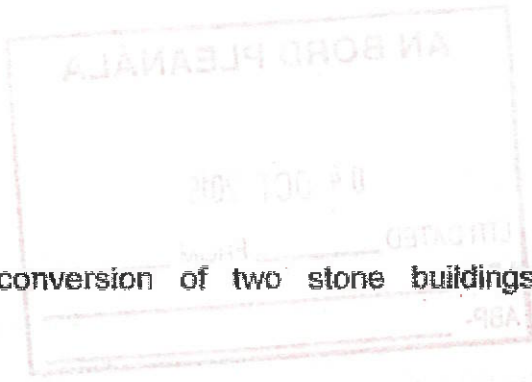
### Principle of Development

The site is located within Zone 6 of the LCDP 2015 -2021 and as such Policy RD 41 is applicable and it allows for limited development including "agricultural developments and extensions to existing authorised uses and farms".

### 1.Retention of extension to existing building for general storage

The fundamental question to be addressed when considering this aspect of the proposal is whether or not the use(s) of the buildings on site is/are considered by the Planning Authority to be authorised. Exploration of the planning history of the site is therefore essential.

Under planning reference 07/1509 permission was granted for *inter alia* change of use of existing agricultural machinery yard and store to store and yard for repair service,



storage and sales of machinery, conversion of two stone buildings to office accommodation and stores etc.

Planning reference 07/1509 was considered under the Louth County Council Development Plan 2003-2009 and at that time the site was located within Zone 5; were, "agricultural developments, extensions to existing authorised commercial and industrial developments; diversified agricultural activity/ farm enterprises" could be permitted. When considering the application Further Information was requested regarding the type of machinery to be stored on the site and in a letter submitted to the Planning Authority dated 6<sup>th</sup> December 2007 it was stated that agricultural machinery (already assembled) was to be stored thereon. The Planning Authority were satisfied that the proposal was a diversification of agricultural activity and a condition was subsequently placed on the Decision notice to ensure the buildings were not use for any other purpose, see Condition 9:

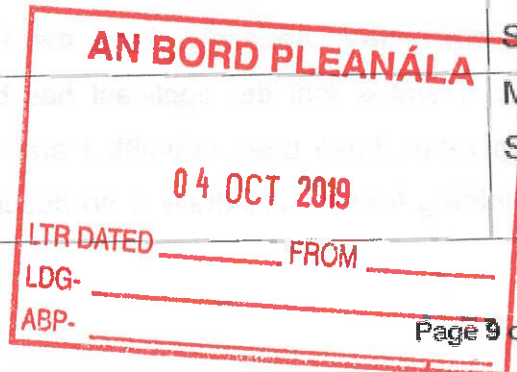
*"Proposed development to be used in accordance with specification in application and not for any other industrial, business or commercial purpose"*

The question therefore arises if the use(s) on site are operating with the confines of Parent Permission 07/1507 and Condition 9 of same.

A site inspection was held on the 13<sup>th</sup> July 2018 and it was established that there are five different entities/ businesses operating out of the site , see Table 1 below:

**Table 1 showing Type use and Occupant**

Type of Use	Occupants
Office	Meehan Drilling and Ground Engineering Services
Office	Meehan Drilling and Ground Engineering Services



**AN BORD PLEANÁLA**

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Workshop and Office	Meehan Drilling and Ground Engineering Services
Storage ( Baby Wipes)	Cassidy's
Storage (Catering Equipment)	Rubbles restaurant
External Yard used for storing catering vehicles	Rubbles restaurant
2 x External Yard Area – storage of equipment	Meehan Drilling and Ground Engineering Services
Storage (Medical Clothing)	Cassidy's
Storage (Vehicle Tyres)	DM tyres's

Furthermore an internet search has revealed that the complex is being advertised as suitable for 'Industrial use and Depot': (<https://www.myhome.ie/commercial/brochure/collonbeg-farm-collon-co-louth/1880905>).

Having inspected the site and searched the internet it is clear that the buildings thereon are not utilised for the "...repair service, storage and sales of machinery". The site is presently being utilised for other business and commercial purposes (see Table 1 above) and is now a de facto unauthorised industrial estate. The use(s) of the buildings are not in compliance with Condition 9 of 07/1509 and thus are unauthorised. The proposal is therefore contrary to RD 41 of the LCDP 2015-2021 which permits inter alia "extensions to existing authorised uses and farms".

2. Retention and completion of partially constructed agricultural store

The Planning Statement submitted in conjunction with the application states that the applicant Mr Davis farms a total of 85ha and that a farm of this scale requires storage for agricultural produce and storage of machinery. Appendix B of the Planning Statement contains a letter from Teagasc, it states that the applicant has been an active tillage farmer since 2011. No farm maps have been submitted and it is not possible to quantify the extent of his landholding furthermore there is no documentary

evidence to verify that an agricultural store is required. Sufficient information has not been submitted to verify that the proposal represents a *bona fide* farm development project which is consistent with RD 9 in the LCDP 2015-2021. It should also be noted that the 'partially constructed agricultural store' for which retention and completion is sought is accessed through buildings/yard that's use is not authorised.

### 3. Retention of hardcore area towards the southern part of the site for parking of vehicles and machinery.

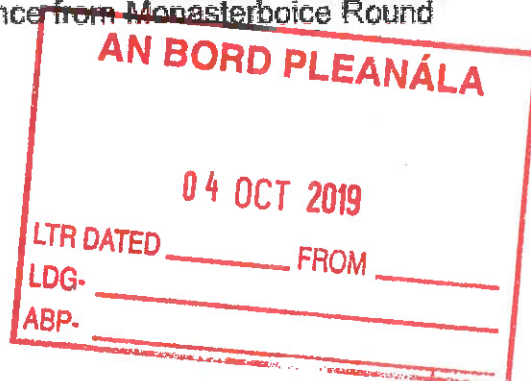
The hardcore area is utilised by Meehan Drilling for the storage of plant machinery. As per Point 1 above the use(s) of the existing buildings on site are not considered to be authorised. RD 41 of the LCDP 2015-2021 only permits *inter alia extensions to existing authorised uses*. Therefore retention of the hardcore area is contrary to RD41. Furthermore the area of hardstanding is considered to be a large scale extension of the original planning unit as granted under 17/1509 and would result in a significant degradation of this sensitive landscape.

### Visual Impact

The Landscape and Visual Impact Report submitted in conjunction with the application analyses:

1. Views of the site from surrounding residential properties
2. Views from road ways,
3. Views from View Point 26 (as identified in the LCDP 2015-2021) and
4. Views from Monasterboice Round Tower and High Crosses (Tentative World Heritage Site).

It is stated that local views of the site from surrounding residential properties and roadways are largely screened. Furthermore there are no direct potential impacts on the Viewpoint 26. However, the Landscape and Visual Impact Report acknowledges that the site at Collon Beg is partially visible in the distance from Monasterboice Round Tower and Crosses (Section 5.1)



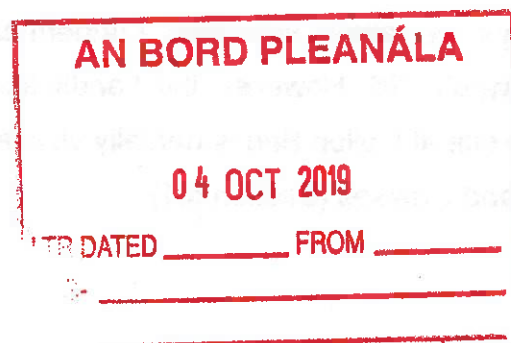
The Conservation Officers Report dated the 25<sup>th</sup> July states: "The scale and form of this industrial complex is not appropriate having regard to the sensitive cultural landscape and the impact that such large scale industrial developments have on the Outstanding Universal Value of this landscape". It is concluded that the "cumulative impact of permitting retention and permission for this development, which is large and industrial in scale design and layout, in conjunction with the existing large scale industrial development and infrastructure on this site does not comply with the Development Assessment Criteria for Development Zone 6 and that the development would materially contravene Policies HER 27 and HER 31 of the 2015 – 2021 Louth County Development Plan".

Having regard to the Landscape and Visual Impact Report and the Conservation Officers report it is clear that there is intervisibility between the application site and Monasterboice Round Tower and High Crosses ( A Tentative World Heritage Site). Thus if permitted the development would impact negatively upon the amenity, character and integrity of the Outstanding Universal Value of the Tentative Monasterboice World Heritage site.

#### Landscaping & Boundary Treatment

The Landscaping and Visual Impact Assessment Report lists existing landscape features and provides some guidance in terms of augmenting existing hedgerow boundaries. No landscaping plan or schedule has been submitted on conjunction with the application. Given that the Planning Authority are not accepting the principle of the development on the site it would be nugatory to seek further information with regard to this matter.

#### Residential Amenity





There are no residential properties in the immediately vicinity of the site the proposal will not therefore adversely impact upon amenity in terms of overshadowing, overbearing or overlooking.

### **Traffic and Access**

Infrastructure Section were consulted and have no objections in respect of the proposal

### **Car Parking**

A breakdown of car-parking provision has not been provided in conjunction with the application. Given that Louth County Council are not accepting the principle of the development on the site it would be nugatory to seek further information with regard to this matter.

### **Wastewater Management/Foul Drainage**

The Environment Section have requested Further Information regarding number of issues inter alia the people to be employed at the site and the capacity of the existing waste water treatment system. Given that Louth County Council are not accepting the principle of the development on the site it would be nugatory to seek further information with regard to this matter.

### **Surface Water Drainage**

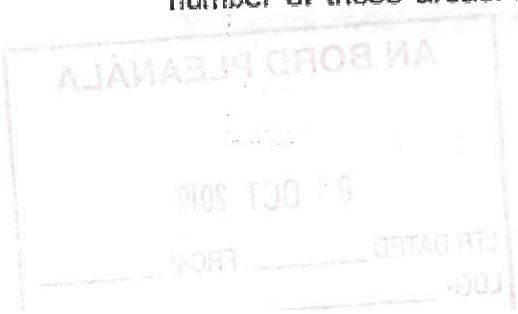
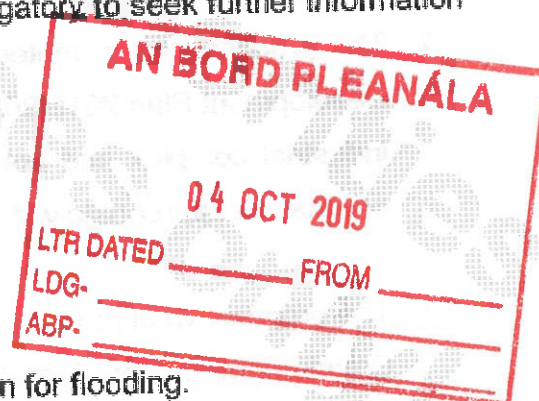
Infrastructure Section have not raised any issues.

### **Flooding**

The application site is not located within an area known for flooding.

### **Natura 2000 Network**

The Screening Report for Appropriate Assessment concludes that the development is not located within or directly adjacent to any SAC or SPA but pathways do exist to a number of these areas. An assessment of the aspects of the project has shown that



significant effects are not likely to have occurred (or are currently occurring) to these areas either alone or in combination with other plans or projects.

In my opinion the impact on an Natura 2000 site cannot be assessed at this juncture as there are outstanding issues including capacity of waste water treatment plant and also impact of the hardstanding area. As previously stated it would be nugatory to seek further information with regard to these issues as Louth County Council do not acceptable the principle of development on the site.

### 10.0 RECOMMENDATION

Having regard to the above it is recommended that the proposed development is **REFUSED** planning permission for the following reasons:

1. The proposal would materially contravene Policy RD 41 of the Louth County Development Plan 2015-2021 in that the applicant has failed to demonstrated that the agricultural store is a bonafide agricultural development which would be considered appropriate within Development Control Zone 6.
2. The proposal would materially contravene Policy RD 41 of the Louth County Development Plan 2015-2021 in that it is a *de facto* extension of an unauthorised industrial complex and not therefore listed as a development which would be considered appropriate within Development Control Zone 6.
3. The proposal would materially contravene Policies RD 9 and RD 13 of the Louth County Development Plan 2015-2021 in that the development relies on visual linkage to an unauthorised development to aid integration into the landscape and cumulatively has a negative effect on the scenic amenity of the area.
4. The proposal would materially contravene Policies HER 27 and HER 31 of the Louth County Development Plan 2015-2021 in that the cumulative impact of

**AN BORD PLEANÁLA**

**04 OCT 2019**

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

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permitting retention of this development, which is large and industrial in scale. design and layout, in conjunction with the existing large scale industrial development and infrastructure on this site is inconsistent with the Development Assessment Criteria for Development Zone 6, the objective of which is:

*To maintain the Outstanding Universal Value (OUV) of the Tentative Monasterboice World Heritage Site in order to protect the landscape and other values contributing to the site's nomination and ensure that this is not damaged in any way.*

5. The applicant has failed to demonstrate to the satisfaction of the planning authority that developments presently under consideration comply with the EPA Wastewater Treatment Manual- Treatments Systems for small communities, business, leisure centres and hotels (1999). In the absence of this information it cannot be determined that the use of the existing WWTS would not be prejudicial to public health.
6. The applicant has failed to demonstrate to the satisfaction of the Planning Authority that retention of the hardcore area complies with Policy WS 10 of the Louth County Development Plan 2015-2021. In the absence of this information retention of the hardcore area would be contrary <sup>to</sup> the proper planning and sustainable development of the area.

*Acc 2*  
Ciara Doran

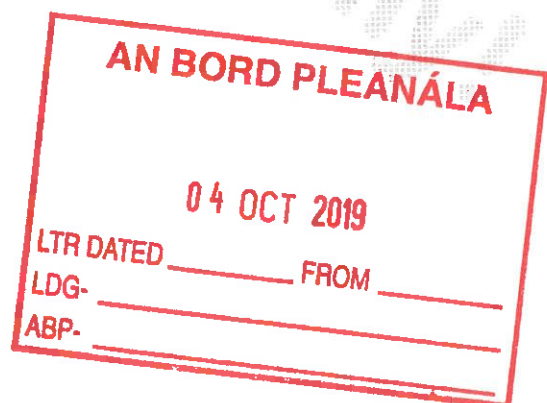
Assistant Planner

Date *01/08/18*

Declan Conlon *Declan Conlon*

Executive Planner

Date *7/8/18*



  
Frank Pentony

Director of Service

Date 09/08/18

Joan Martin  
Chief Executive



Date

10/8/18

**AN BORD PLEANÁLA**

04 OCT 2019

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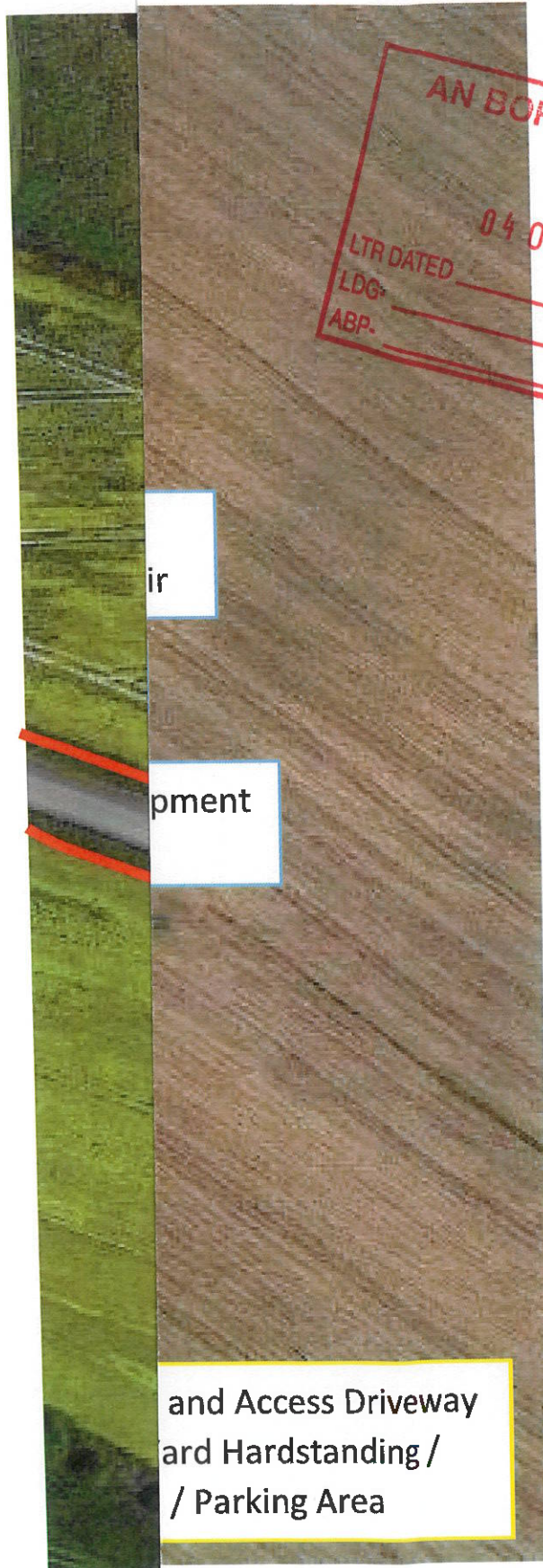
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# B. Davis - Lands and P15 Declaration Request)

## KEY

- Building 1** – Office Use
- Building 2** – Office Use
- Building 3** – Machinery / Equipment Storage & Repair
- Building 4** – Dry Storage
- Building 5** – Machinery / Equipment Storage & Repair
- Building 6** – Dry Storage



ir

ment

and Access Driveway  
ard Hardstanding /  
/ Parking Area





Comhairle Contae Lú  
Louth County Council

18<sup>th</sup> December 2018

Barry Davis  
Shanlis  
Ardee  
Co. Louth

Ref: 17 U089

**Re: Unauthorised commercial/industrial use at Collonbeg Farm, Collon,  
Co. Louth A92 H6EV**

Dear Sir,

It has come to the Planning Authority's attention that there is an unauthorised development at Collonbeg Farm, Collon, Co. Louth, in accordance with the Planning & Development Act 2000.

Please find enclosed Warning Letter issued under the Planning & Development Act 2000. Failure to comply with the terms of this letter is a serious offence, and may result in legal action being initiated against you.

Should it be necessary for the Council to serve an Enforcement Notice, the costs involved will be a minimum of €450.00. There will also be a charge of €250.00 for each site visit thereafter. It should be noted that the Council's solicitor's fees will also be due. All of the above charges will be payable by you.

Yours faithfully,

**Cathriona Kieran**  
Staff Officer  
Compliance (Planning Enforcement) Section

Phone - 042 9324118/ 042 9392959/ 042 9392905  
Email: [planningenforcement@louthcoco.ie](mailto:planningenforcement@louthcoco.ie)

*Correspondence in this matter should be addressed to;  
Compliance (Planning), Louth County Council, Town Hall, Crowe Street, Dundalk, Co.  
Louth.*

**AN BORD PLEANÁLA**

**04 OCT 2019**

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_  
LDG- \_\_\_\_\_  
ABP- \_\_\_\_\_

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

Local 1890 202303  
T + 353 42 9335457  
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E [info@louthcoco.ie](mailto:info@louthcoco.ie)  
W [www.louthcoco.ie](http://www.louthcoco.ie)

*Cuirfear fáilte roimh chomhfhreagras Gaeilge - Correspondence in Irish is welcome*





# LOUTH COUNTY COUNCIL

## WARNING LETTER

PURSUANT TO SECTION 152  
OF THE PLANNING AND DEVELOPMENT ACT, 2000

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To: Barry Davis  
Shanlis  
Ardee  
Co. Louth

It has come to the attention of Louth County Council, being the Planning Authority for the County of Louth that unauthorised development as described in the First Schedule hereto may have been, is being or may be carried out on land described in the Second Schedule hereto.

A submission or observation in relation to same may be made in writing to Louth County Council, Compliance (Planning Enforcement), Town Hall, Crowe Street, Dundalk Co. Louth, not later than 5:00pm on **Friday 25<sup>th</sup> January, 2019.**

When a Planning Authority considers that unauthorised development has been, is being or may be carried out, an Enforcement Notice may be issued.

Officials of the Planning Authority may at all reasonable times enter on the land described in the Second Schedule hereto for the purposes of inspection.

This is an offence that attracts the penalties set out in the Third Schedule hereto.

Any costs reasonably incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom an Enforcement Notice is served, or where Court action is taken.

<b>AN BORD PLEANÁLA</b>	
04 OCT 2019	
LTR DATED	_____
LDG-	_____
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## FIRST SCHEDULE

### Details of unauthorised development

- 1) Unauthorised industrial complex
- 2) Unauthorised "*change of use of existing agricultural machinery yard and store to store and yard for repair service, storage and sales of machinery, conversion of two stone buildings to office accommodation and store*", to other commercial uses, contrary to Condition No. 9 of Planning Reference: 07/1509 which states the following: "*The proposed development shall be used in accordance with that specified in the application and not for any other industrial, business or commercial purpose*".
- 3) Unauthorised detached portal frame shed c.446m<sup>2</sup> to the north of this industrial complex.
- 4) Unauthorised extension of portal frame shed c. 300m<sup>2</sup> abutting the North West boundary of this industrial complex.
- 5) Unauthorised extension of portal frame shed c. 240m<sup>2</sup> abutting the East boundary of this industrial complex.
- 6) Unauthorised hardcore area c. 1793m<sup>2</sup> used for commercial open storage to South East of the industrial complex.
- 7) Unauthorised commercial open storage throughout the industrial complex.

## SECOND SCHEDULE

### Location of Unauthorised Development Including Townland

Collonbeg Farm, Collon, Co. Louth A92 H6EV

<b>AN BORD PLEANÁLA</b>	
04 OCT 2019	
LTR DATED _____	FRC _____
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04 OCT 2019

RECEIVED DATED \_\_\_\_\_ FROM \_\_\_\_\_

THIRD SCHEDULE

- (1) A person who is guilty of an offence under Section 154 of the Planning and Development Act, 2000 shall be liable :-
- (a) on conviction on indictment to a fine not exceeding €12,697.38 or to imprisonment for a term not exceeding 2 years, or to both, or
  - (b) on summary conviction, to a fine not exceeding €5000.00 or to imprisonment for a term not exceeding 6 months, or to both.
- (2) Where a person is convicted of an offence referred to in (1) above, and there is a continuation by him or her of the offence after his or her conviction, he or she shall be guilty of a further offence on every day on which the contravention continues and for each such offence shall be liable-
- (a) on conviction on indictment, to a fine not exceeding €12,697.38 for each day on which the offence is so continued or to imprisonment for a term not exceeding 2 years, or to both, provided that if a person is convicted in the same proceedings of 2 or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed 2 years, or
  - (b) on summary conviction to a fine not exceeding €1500.00 for each day on which the offence is so continued or to imprisonment for a term not exceeding 6 months or to both, provided that if a person is convicted in the same proceedings of 2 or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed 6 months.
- (3) Where a person is convicted of an offence under sub-section (1) (or a further offence under subsection 2) involving the construction of an unauthorised structure the minimum fine shall be --
- (a) on conviction on indictment the estimated cost of the structure or €12,697.38 whichever is less, or
  - (b) on summary conviction the estimated cost of the construction of the structure or €2500.00, whichever is less

The Planning Authority may also recover any costs reasonably incurred by the Planning Authority in relation to enforcement proceedings from a person on whom an Enforcement Notice is served or where court action is taken.

The Planning Act allows for applications for Retention, and this course is obviously open to you. However, such an application will not necessarily stay Enforcement proceedings the Planning Authority may decide to take.



Dated this 18<sup>th</sup> day of December 2018.

Signed: 

Cathriona Kieran  
Staff Officer  
Compliance (Planning Enforcement)  
Louth County Council  
Town Hall  
Crowe Street  
Dundalk  
Co. Louth

