



An
Bord
Pleanála

Inspector's Report ABP-319266-24

Questions

1. Whether the change of use of the barn at Fiery Lane, Glencullen to a pottery manufacturing business is or is not development or is or is not exempted development.
2. Whether the works carried out to the exterior of the barn are or are not development or are or are not exempted development.
3. Whether the creation of the access road to the pottery manufacturing business is or is not development or is or is not exempted development.
4. Whether the alterations to the field entrance and the laying of hardcore and fencing is or is not development or is or is not exempted development.

Location

Fiery Lane, Glencullen, Dublin 18
D18YH9T

Declaration

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

REF7323

Planning Authority Decision

1. Change of use of barn to pottery manufacturing business is not development.
2. Works to exterior of barn would constitute development and would be exempted development.
3. Creation of access road to pottery manufacturing business across agricultural field and the laying of hardcore and fencing at the agricultural entrance would constitute development and would be exempted development.

Referral

Referred by

David Ridgway

Landowner

Cóilín Corcoran

Occupier

Daniel Woodsmith

Date of Site Inspection

18th June 2024

Inspector

John Duffy

Contents

1.0 Site Location and Description.....	4
2.0 The Questions.....	4
3.0 Planning Authority Reports and Further Information submission	5
4.0 Planning Authority Declaration	9
5.0 Planning History	10
6.0 Policy Context	10
7.0 The Referral.....	12
7.1 Referrer's Case.....	12
7.2 Planning Authority response.....	16
7.3 Response from landowner.....	16
7.4 Response from occupier.....	16
8.0 Statutory Provisions	17
8.1 Planning and Development Act, 2000 as amended.....	17
8.2 Planning and Development Regulations, 2001 as amended.....	18
9.0 Assessment.....	21
10.0 Recommendation.....	26

1.0 Site Location and Description

- 1.1. The subject lands, the area of which is not stated, accommodates a barn and outbuildings located in a rural area approximately 1 kilometre south-west of Glencullen village, near the Dublin / Wicklow county boundary. The topography in this area is dominated by the valley of the Glencullen River, which flows in a general direction from north-west to south-east.
- 1.2. The property, the subject of this referral, lies south-east of a dwelling known as Granite Lodge located on Fiery Lane. Fiery Lane, which is a cul-de-sac off Ballybrack Road (R116), provides access to the referral site which contains the subject barn, by way of a gated access track to the north-east. This structure is not overtly visible from the public road.
- 1.3. The finish of the barn, which has a barrel type / curved roof, comprises corrugated metal cladding. The barn is used for storage purposes and also as a workshop for the production of ceramics and pottery.

2.0 The Questions

- 2.1. A number of questions have arisen pursuant to Section 5 of the Planning and Development Act 2000 as amended, as follows:
 - (1) Whether the use of the barn at Fiery Lane, Glencullen for the purposes of a pottery manufacturing business is or is not development or is or is not exempted development.
 - (2) Whether the works carried out to the barn and the site are or are not development or are or are not exempted development.
 - (3) Whether the construction of the access road to serve the pottery manufacturing business is or is not development or is or is not exempted development.
 - (4) Whether the alteration to the field entrance gateway including provision of parking facilities, the laying of hardcore and fencing is or is not development or is or is not exempted development.
- 2.2 In terms of Question 4 above which relates to purported alterations to the gated field entrance from Fiery Lane, on foot of the site inspection and the examination of online

photography resources, I consider that no alterations have been made to the entrance, other than the removal of some vegetation proximate to the entrance. Furthermore, at the site inspection it was apparent that no formal parking facilities are provided on the site. Having regard to the foregoing, I consider that Question 4 should be reformulated to exclude references to alterations to the field entrance and parking facilities, as follows: 'Whether the laying of hardcore and fencing is or is not development or is or is not exempted development.'

3.0 Planning Reports and Further Information submission

- 3.1 The first report of the Planning Officer sets out the legislative context and reflects the matters raised in the questions as set out in the application for the Declaration. It provides an initial assessment of these issues, which is summarised below.
- 3.2 The first report considers that works carried out to the exterior of barn, creation of access road to the manufacturing business across agricultural field, alterations to field entrance and laying of hardcore and fencing at the agricultural entrance, at Fiery Lane, Glencullen, constitute works and development as defined in the Planning and Development Act 2000, as amended. This report also notes / considers the following:
- Lack of evidence provided by applicant that a material change of use of the barn to pottery business has occurred.
 - Information has not been submitted from the landowner(s) and user(s).
 - No significant exterior changes made to the barn that render the external appearance of the structure 'inconsistent with the character of the structure or of neighbouring structures.' As such any works carried out to the exterior of the barn are deemed to be exempted under Section 4 (1) (h) of the Planning and Development Act 2000, as amended.
 - In the absence of information to the contrary, the planning authority is satisfied from the site inspection that the paving/track/access road to the barn meets the requirements and conditions of Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001, as amended.

- In terms of the field entrance, no parking area was observed at the site inspection. Internal fencing (inside the gate) is less than 2 m in height and is considered to be exempt having regard to Schedule 2, Part 3, Class 4.
- It is considered that restrictions to exempted development as set out under Article 9 of the 2001 Regulations, as amended, (specifically 9(1)(ii), (iii), (vi) and (xi)) do not apply based on the information submitted.

The report recommends that Further Information (FI) be requested from the landowner and barn user only as follows:

1. You are invited to submit any information you may or may not have, that may be pertinent to the Planning Authority's determination of the application made for a declaration of development, and exempted development or not, related to cited/alleged development at Fiery Lane, Glencullen, Dublin 18, under Section 5 of the Planning and Development Act 2000, as amended, under reg. ref. 7323 by Mr David Ridgeway. Any response should clearly address the items in the order that they have been outlined in the submission (i.e. a, b, c and d).

3.3 The FI submission received on 29th January 2024 by the planning authority from Mr. Cólín Corcoran, the owner of the barn, includes the following:

- A chronological history of the use of the property / yard / barn. It is stated that up to 1980, generations of stone workers / masons brought stone from the quarry to the site, which was subsequently transported onwards to Dublin. It is stated that stone workers built Granite Lodge in 1888 to display their masonry skills. From 1980 to 1988 the barn premises was used to produce historic plaster mouldings (photos of mouldings are included with the submission). From 1990 to the present the premises has been used as a workshop by the owner and his son in connection with their businesses which relate to, inter alia, reclamation of timber and granite, by a garage owner and by the current occupier, Araucuria Ceramics.
- Several diary entries from 1991 and 1993 referring to 'stone' including 'Seeking / Pricing Stone,' Buying /Assembling Stone, 'Seeking/Quotation/Pricing Stone.'

- Copy of an Affidavit signed by C  il  n Corcoran, dated 16th February 2023, relating to Planning Enforcement File No. ENF 37722. This confirms use of the shed as described above.
- Correspondence from several third parties attesting to the use of the shed / barn as a workshop by the landowner and that the premises on Fiery Lane was used in connection with Ballybrew quarry.
- Copy of an Affidavit signed by James Maguire dated February 2023 stating that the Maguire family owned the house, yard and surrounding lands at Fiery Lane from the early 1900's up until around 1990, when they were purchased by C  il  n Corcoran. It sets out, inter alia, the chronological history of the site and states, inter alia, that the yard at Fiery Lane was used to finish work from Ballybrew quarry and that Fiery Lane was an integral link to transporting the finished granite from the quarry to Dublin by horse and cart.
- Copy of an Affidavit signed by Daniel Woodsmith (occupier of the barn), dated 16th February 2023, stating, inter alia, that there is no public access to the premises, there is no signage associated with the operation, and that there is no specific location / address of the operation given on the website.
- Correspondence from Daniel Woodsmith stating, inter alia, that there is an eco-toilet at the workshop, which when emptied is composted at his home.
- Copies of invoices addressed to Cian Corcoran (landowner's son) at Granite Lodge, Fiery Lane between 2012 and 2014, in connection with his industrial design business.
- Correspondence from Kieran O'Malley & Co. Ltd. dated 29th November 2022 on behalf of James Maguire, the landowner of part of the land that was subject to a warning letter from the local authority's Enforcement Section. It states the following:
 - No works were affected to the existing gateway at Fiery Lane.
 - The laneway / roadway on the lands, which is over 100 years old, has been repaired and improved. This is exempted development having regard to Class 13.

- Correspondence to Enforcement Section from John Bird, Planning Consultant on behalf of C  il  n Corcoran, which concludes the following:
 - The alleged widening of the entrance did not take place.
 - The repair of the long established internal track / lane is exempted development.
 - The infill of the barn was exempted development.
 - The present use of the barn structure as a workshop and small pottery is a continuation of long established business uses which pre-date 1st October 1964.
- A copy of correspondence from Planning Enforcement to John Bird, Planning Consultant, in relation to Enforcement file ENF 37722, advising that the planning enforcement file in respect of the matters has been closed and the reasons for this.

3.4 Based on the FI received, the second Planning Officer's report considers / notes the following:

- In terms of the possible intensification of development arising from electricity connection, and use of water and associated run-off (as raised in the application for the Declaration), this was not considered significant in the context of the use observed at the site visit.
- The FI from the landowner includes statements from the former landowner and also from the current user of the barn. The documents provided are considered to support the contention that the current industrial and storage use (pottery manufacturing), as observed on the site, is the long established (pre 1963 use) type use, such that no material change of use from agriculture use arises in respect of the current use.
- The FI submission includes copies of sworn statements in support of the statements made regarding the historical and current use of the barn.
- No evidence provided that the current use type ceased.
- No evidence of a retail use type associated with the barn or the site.

- Not considered unusual for barn structures to have multiple, casual, temporary and complimentary uses over an extended period.
- It is considered that the current use type falls within the definition of 'business premises' as set out in Article 5(1) of the Planning and Development Regulations 2001, as amended.
- It is concluded that no material change of the use of the barn has arisen 'noting that agricultural use is presented as not the predominant pre-1963 use of the barn and surrounds.' As such the change of use is not considered to be development.

4.0 Planning Authority Declaration

4.1 Declaration

The Notification of Declaration on Development and Exempted Development dated 15th March 2024, in accordance with Section 5 of the Planning and Development Act 2000 as amended, considered that:

(1) Change of use of barn to pottery manufacturing business is not development under Section 3(1) of the Act;

(2) Works carried out to exterior of barn is development and is exempted development under Section 4 (1)(h) of the Act;

(3) Creation of access road to same manufacturing business across agricultural field, and (4) the laying of hardcore and fencing at agricultural entrance, is development and is exempted development per the exemptions provided for in Part 1, Class 13, and Part 3, Class 4, Article 6, Schedule 2 of the Planning and Development Regulations 2001, as amended.

A note at the end of the Notification of Declaration states the following:

'NOTE: Following the above assessment and conclusion, it is considered (regarding item 4) that no alterations have taken place to the field entrance, and that this matter as part of the application has been omitted from the final determination.'

5.0 Planning History

5.1 Site History

There is no planning history pertaining to the referral site.

5.2 Enforcement History

Planning Authority Ref. ENF 37722 is referred to in the Planning Officer's report as an enforcement case relating to the lands. The report indicates that the complaint was dismissed.

5.3 Previous Board References / Referrals

Nothing of direct relevance to this case was found on the referral database.

6.0 Policy Context

6.1 Development Plan

- 6.1.1 The relevant operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2022-2028. The site falls within the boundary of lands for which a Local Area Plan will be prepared. In this regard the current Development Plan states the following (page 87):

'A new Local Area Plan (LAP) will be prepared for Glencullen Village and its environs during the lifetime of this Plan. The 2007 and 2013 update to the LAP set out criteria and a framework for development within this very sensitive landscape, much of which remains robust and relevant. In this regard, any development within the Glencullen LAP should take account of the 2007/2013 LAP until such time that a new Plan is adopted. In evaluating development applications in other rural parts of the County regard should be had to the guiding principles set out in the Glencullen Design Guide.'

- 6.1.2. The subject site is subject to zoning objective 'G' which seeks 'To protect and improve high amenity areas.'

- 6.1.3. The wider area including the subject site is subject to Strategic Local Objective (SLO) 151 which relates to provision of a number of holiday caravan/camping

facilities within a 1km radius of the cross roads at Glencullen subject to several criteria.

6.1.4. Relevant Development Plan policies for the area include:

- Section 8.4.3 Policy Objective GIB4: High Amenity Zones: It is Policy Objective to conserve and enhance existing High Amenity Zones and to seek to manage these and other areas to absorb further recreational uses and activity without damaging their unique character.
- Section 8.4.5 Policy Objective GIB6: Views and Prospects: It is a Policy Objective to preserve, protect and encourage the enjoyment of views and prospects of special amenity value or special interests, and to prevent development, which would block or otherwise interfere with Views and/or Prospects.

6.1.5. In terms of Landscape Character Type, the appeal site is located within Landscape Area 7, the Glencullen Valley (see Appendix 8 of the Development Plan), which is introduced as follows: 'The enclosure of the Glencullen Valley is possibly the most tranquil, unspoilt, high amenity area in the County which is further enhanced by the presence of the village of Glencullen at the crossroads in the valley.'

6.1.6. Table 8.1 of the Development Plan provides a listing of 'Prospects to be Preserved.' Glencullen Mountain and Valley from the Ballybrack Road is included in the listing.

6.2 Natural Heritage Designations

- Knocksink Wood SAC and pNHA (Site Code: 000725), approximately 1 km to the south-east.
- Ballyman Glen SAC and pNHA (Site Code: 000713), approximately 4 km to the south-east.
- Wicklow Mountains SAC (Site Code: 002122), approximately 1.5 km to the south-west.
- Wicklow Mountains SPA (Site Code: 004040), approximately 1.5 km to the south-west.

7.0 The Referral

7.1 Referrer's Case

David Ridgway of Granite Lodge, Fiery Lane, Glencullen, Dublin 18 has appealed the declaration decision of Dun Laoghaire Rathdown County Council.

The following points are made:

- At the outset of the appeal submission, the referrer's agent requests that the Board 'circulate any submission from the Planning Authority to allow our client an opportunity to comment on any additional material that was submitted.' Specific reference is made to a document submitted to the Planning Authority on 29th January 2024 from the landowner.

General

- Site is located to the south-east of the referrer's dwelling.
- The subject barn has been converted to and is in use as a pottery manufacturing business (Araucaria Ceramics). The barn was used previously for storage / agricultural purposes.
- A new road has been constructed to serve the business, using a field gate from Fiery Lane. This involved removal of vegetation and the spreading of gravel (Photographs provided).
- Significant work was undertaken to the interior of the barn, which is used for manufacturing pottery and retail purposes.
- Alterations made to the exterior of the barn, e.g. chimney flue, external water tanks, new corrugated metal cladding, electricity meter / new connection.

Question 1:

- The barn and associated on-site buildings are leased by the landowner to a pottery manufacturing business since late 2022. The previous use of the barn has ceased and this new use / activity constitutes a material change of use, and therefore it is development.
- There are changes in environmental effects associated with the development in terms of vehicular traffic generation, waste water run-off, lack of sanitary

facilities, along with a visual and functional difference between previous use on the site and that which currently exists.

- The change of use does not come within the scope of any of the categories of Section 4(1) of the Planning and Development Act 2000, as amended.
- The change of use does not benefit from the exemptions set out in Schedule 2 or Article 10 of the Planning and Development Regulations 2001, as amended.
- The change of use of the barn from agricultural / storage use to pottery manufacturing is development and is not exempted development.

Question 2:

- Exterior of barn is altered by water tanks and an external flue.
- External water tanks are inconsistent with the character of the barn by virtue of their nature, scale and location. The external flue is visually out of character with an agricultural barn.
- Installation of these elements is not considered to be exempted development.

Question 3:

- The access track across the field to the barn did not exist before 2022 (aerial photography provided).
- The field entrance onto Fiery Lane was previously used by agricultural machinery to gain access to the field. A road way to provide access to the barn / pottery business was created in 2022 involving gorse removal and laying of a gravel surface along the new track. Creation of this private road constitutes development.
- A parking area is formed beside the pottery building with additional hard core laid.
- The development does not fall under Class 13 of the 2001 Regulations which refers to the repair or improvement of any private street road or way. There was no private road across the third party lands providing access to the barn building and adjoining yard. The road serves the unauthorised development occurring in the barn.

- Reference made to Article 9(1)(a)(viii) of the Regulations which states that development is not exempted development if it consists of or comprises the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use. The provision of a parking area serving the pottery premises is not exempted development on the basis of Article 9(1)(a)(viii).
- The Planning Authority's interpretation of Class 13 is mistaken, as it makes no distinction between road and path. It is clear that the structure in question is a road, designed and constructed for vehicular traffic.
- The Planning Authority's reference to 3 m width is in the context of repair or improvement of an existing road, which is not relevant to formation of a new road.

Question 4:

- The pottery manufactory is served by the new road with access onto Fiery Lane via the location of a pre-existing agricultural access. This access is linked to the agricultural lands in third party ownership providing occasional access to them.
- The pottery workshop generates new additional traffic movements leading to additional turning movements at the access point onto Fiery Lane. This constitutes intensification of use of the access amounting to a material change of use. Sightlines are restricted, generating a traffic hazard for the increased traffic movements. Article 9(1)(a)(iii) of the Regulations applies and states that developments shall not be exempted where such development would endanger public safety by reason of traffic hazard or obstruction of road users.

Other:

- The appellant has had access only to part of the landowner's heavily redacted submission which was made in response to the Section 5 application.

- This submission included unsubstantiated points regarding stone cutting, which, it is considered, lacks foundation. The landowner appears to have no connection with any quarrying business or associated activity.
- There is no evidence of any commercial rates being paid to use the barn for commercial purposes.

The referral includes a significant number of attachments, as follows:

- A sworn affidavit dated 7th March 2024 from David Ridgway and Catherine Ridgway in relation to the matter and associated appendices (marked A-M) to the affidavit, as follows.

Appendix A – Copies of solicitors letters (2017) relating to the purchase of Granite Lodge.

Appendix B – Copy of a solicitor's letter (2017) relating to registration of a right of way.

Appendix C – Documentation relating to legal proceedings between the referrer and the landowner.

Appendix D – Photographs of works on the lands.

Appendix E – Aerial images of the site.

Appendix F – Information relating to Araucaria Ceramics from the Companies Registration Office.

Appendix G – Screenshots taken from Araucaria websites.

Appendix H – Extracts from a book entitled 'Half A Century At The Stone.'

Appendix I – 1830's quarry map.

Appendix J – Further extracts from 'Half A Century At The Stone' and photographs of Ballybrew quarry.

Appendix K – Ordnance Survey maps.

Appendix L – Information relating to Designgoat from the Companies Registration Office.

Appendix M – Water test results.

- Site Location Map.
- Copy of submission from C. Corcoran to the Planning Authority (as supplied by the Planning Authority).
- Copy of Declaration dated 14th February 2024.
- Images of the subject area between 2022 and 2023.
- Support letter from K. Lynch (neighbour).
- Independent valuation report of the barn and adjoining lands.

7.2 Response from Planning Authority

None.

7.3 Response from landowner

This response may be summarised as follows:

- Appeal does not appear to raise new issues.
- The planning authority's decision is supported.
- Refers to items of FI provided including affidavits from persons who are aware of the long history of the structure as a workshop and used for storage purposes.
- The same issues were raised through the enforcement process (ENF 7323 refers). The result of the enforcement process is as follows:
 - (1) Change of use of barn to pottery manufacturing business is not development under Section 3(1) of the Act and
 - (2) Works carried out to the exterior of the barn is development and is exempted development having regard to section 4 (1)(h) of the Act.
- The workshop and storage building are not open to the public and are accessed through a padlocked farm gate.

7.4 Response from occupier of the barn

None.

8.0 Statutory Provisions

8.1 Planning and Development Act, 2000 as amended

Section 2(1) – Interpretation

The following are relevant to the subject questions:

structure means –

‘any building, structure, excavation or other thing constructed or made on, in or under any land, a part of any structure so defined and

(a) where the context so admits, includes the land on, in or under which the structure is situate and

(b) in relation to a protected structure or proposed protected structure includes

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraphs (i) or (iii)’

works

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

Section 3(1) - Development

In the Act ‘...‘development’ means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.’

Section 4(1) sets out development that is exempt from requiring planning permission.

4(1)(h) is relevant:

‘development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure 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’

Section 4(4) ‘Exempted development’

‘Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.’

8.2 Planning and Development Regulations, 2001 as amended

PART 2

Exempted Development

Article 5 (1) In this Part – ‘business premises’ means

(a) any structure or other land (not being an excluded premises) which is normally used for the carrying on of any professional, commercial or industrial undertaking or any structure (not being an excluded premises) which is normally used for the provision therein of services to persons

Article 6

‘(1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.’

Article 9

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

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

- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,
- (xi) obstruct any public right of way

Schedule 2

Part 1 – Exempted Development – General

Description of Development

Class 11

‘The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of –

- (a) any fence (not being a hoarding or sheet metal fence), or
- (b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.’

Conditions and Limitations

1. The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres.
2. Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered.

Class 13

'The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.'

Condition and Limitation

The width of any such private footpath or paving shall not exceed 3 metres.

Part 3 – Exempted Development – Rural

Description of Development

Class 4

'The construction, erection or maintenance of any wall or fence, other than a fence of sheet metal, or a wall or fence within or bounding the curtilage of a house.'

Conditions and Limitations

1. The height of the wall or fence, other than a fence referred to in paragraph 2, shall not exceed 2 metres.
2. The height of any fence for the purposes of deer farming or conservation shall not exceed 3 metres.

9.0 Assessment

- 9.1 It should be stated at the outset of this assessment, that the purpose of the referral is not to determine the acceptability or otherwise of the pottery manufacturing business operating from the barn (including works to the barn , the access road to the barn / pottery manufacturing business, and the laying of hardcore and fencing at the entrance) in respect of the proper planning and sustainable development of the area, but rather whether or not the matters in question constitute development, and if so, fall within the scope of exempted development. Likewise, planning enforcement is a matter for the Planning Authority and does not fall within the jurisdiction of the Board.

9.2 Is or is not development

- 9.2.1. Having regard to Section 2(1) and Section 3(1) of the Planning and Development Act 2000 as amended, it is considered that the following elements constitute 'works' and 'development' within the meaning of the act;

- The works carried out to the interior and exterior of the barn.
- The access road to the pottery manufacturing business and the laying of hardcore.
- The provision of fencing inside the gated entrance.

9.2.2. I do not consider that any material change in the use of the barn has been made, and, therefore, the use as a pottery manufacturing business does not constitute development. This matter is further detailed in section 9.3 below.

9.2.3. I consider that the electricity connection to the barn does not constitute 'works' or 'development' within the meaning of the Act. I note there is a separate application process in place outside of planning permission for connection to electricity.

9.3 Use of barn as a pottery manufacturing business

9.3.1. The FI submission provided to the planning authority by the barn owner charts the use of the structure over the last 100 years or so. In summary, it is contended that the barn has long established industrial and storage uses. It is stated that the barn was used in connection with a nearby quarry (Ballybrew) with stone-cutting occurring on the site for many years. Thereafter, around 1980 the barn was used as a period plaster moulding workshop and then from 1990 it was used as a workshop by the present owner in relation to his job / business. In 2022 the pottery enterprise located to the barn. The FI submission includes a number of affidavits from local persons, including a previous owner, who have all confirmed the long-standing and established industrial and storage use of the barn.

9.3.2. Having regard to the FI provided, including the statutory declarations of a number of people who appear to be knowledgeable about the use of the barn down through the years, I do not have any evidence which would contradict the industrial and storage uses of the barn structure as put forward by the current owner, previous owner and others. I agree with the Planning Officer's report, that it is not unusual for barns to have multiple, casual and complementary uses over an extended period.

9.3.3. Having examined the detailed submissions and associated appendices lodged by the referrer, no substantive evidence is put forward which demonstrates that the current use type at the barn ended at any point. I consider that the pottery manufacturing business is consistent with the established industrial and storage

uses on the site, that it does not constitute a material change of use and therefore the use as a pottery manufacturing business does not constitute development.

9.4 Works to the barn and the site – Is or is not exempted development

9.4.1. Having established that the 'works' undertaken amount to 'development,' the next issue to be considered is whether the development is exempted development or not. Development can be exempt from the requirement for planning permission by either Section 4 of the Planning and Development Act 2000 as amended, or by Article 6 of the Planning and Development Regulations 2001 as amended.

9.4.2. The referrer considers that the barn exterior is altered by corrugated metal cladding, water tanks and an external flue, and that installation of these elements is not exempted development. Having inspected the site, I do not consider that the corrugated metal cladding, the chimney flue and the external water storage tank materially affect the external appearance of the barn structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures. I consider that these works benefit from the exemption under section 4(1)(h) of the Planning and Development Act 2000, as amended.

From the site inspection it is apparent that works have taken place within the barn including installation of two electric kilns and a new floor. In my view these works relate to the improvement of the structure which affect its interior only and are also exempted under section 4(1)(h) of the Act.

9.5 Construction of the access road to serve the pottery manufacturing business – Is or is not exempted development

9.5.1. The referrer is of the opinion that the access track / road traversing the field which leads to the barn did not exist before 2022 and that the creation of this private road constitutes development. A submission on behalf of the landowner lodged with the FI submitted to the planning authority advises that the track has been in existence for over 100 years and that it has been repaired / improved in recent times.

The internal access track / road comprises loose stones on top of compacted soil. The track / road constitutes exempted development under Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended. The width of the track does not appear to exceed 3 m, as observed at site inspection, and therefore the Condition and Limitation associated with Class 13 is not breached.

While there is disagreement between parties in terms of whether the track existed prior to 2022, I note that the final clause of Class 13 provides for the 'construction of any private footpath or **paving**' (my emphasis), with the access track considered to fall within this development type and exemption.

9.6 Alteration to field entrance gateway / Provision of parking facilities / Laying of hardcore and fencing - Is or is not exempted development

9.6.1 In relation to purported alterations to the gated entrance to the field from Fiery Lane, following the site inspection and the examination of online photography resources, I conclude that no alterations have been made to the entrance, other than the removal of some vegetation proximate to the entrance.

9.6.2 As observed at the site inspection, internal fencing has been erected inside the gated entrance to the lands. I consider that this fencing is exempted development on the basis that it measures less than 2 m in height. The fencing therefore avails of the exemption under Class 4 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

9.6.3 I observed no provision made for parking facilities at or in the vicinity of the site entrance or the barn during the site inspection. I conclude that no development has taken place in this regard.

9.6.4 The laying of hardcore at the site entrance forms part of the access track as referred to in Section 8.4 of this report and it is deemed to constitute exempted development under Class 13, as set out above (see section 8.4).

9.7 Article 9(1) Restrictions on Exempted Development

9.7.1. I have proceeded to assess the relevant questions under Article 9(1) of the Planning and Development Regulations 2001, as amended, which applies to restrictions on exemptions of development (identified in paragraph 9.2.1 above) to which Article 6 of said Regulations relates. The referrer considers that the pottery workshop generates new and additional traffic movements at the access point onto Fiery Lane, with reference made to Article 9(1)(a)(iii). In addition to this restriction, I consider that 3 other restrictions are applicable in this instance, those being (ii), (vi), (xi) and (viiB).

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

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

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

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

(xi) obstruct any public right of way

9.7.2 In terms of Article 9(1)(a)(ii) the development does not consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width. I consider therefore that the development would not be de-exempted in this regard.

9.7.3 I do not consider that the pottery business, where a sole potter works, generates significant additional traffic movements at the entrance point onto Fiery Lane. Further, it has been confirmed by the landowner in the response to the referral that no customers attend the site. The carriageway is narrow in width and due to its configuration, the speed environment at this location is low. As such, I consider that the restriction under Article 9(1)(a)(iii) does not de-exempt the development.

9.7.4 The subject site is within a high amenity area associated with the Glencullen Valley which is noted in Appendix 8 of the Development Plan as 'possibly the most tranquil, unspoilt, high amenity area of the County.' Policy Objectives GIB4 and GUB6 seek, inter alia, to preserve and protect existing high amenity zones, views, and prospects and to prevent development which would interfere with views and damage the unique character of high amenity areas. I note the existing barn and surrounding lands are not overtly visible from Fiery Lane or other viewpoints. I am satisfied that the

development would not interfere with the character of the landscape or a view or prospect of special amenity value or special interest. Therefore, I consider that the development would not be de-exempted in this regard.

9.7.5 As assessed under section 9.9 below, I consider that an Appropriate Assessment is not required and therefore the development would not be de-exempted pursuant to Article 9(1)(a)(viiB).

9.7.6 In terms of Article 9(1)(a)(xi) the development does not obstruct any right of way.

9.8 **Matter Arising**

The referrer requests that the FI submission received by the planning authority from the landowner on the 29th January 2024 be circulated for comment, on the basis that it was heavily redacted. I do not consider it necessary to circulate this submission. There is a significant amount of documentation on file, including documentation lodged in support of the referral, which enables full consideration of the questions posed.

9.9 **Appropriate Assessment (AA) Screening**

9.9.1 I have considered the development (which I have determined to be exempted development, as set out above as set out above in paragraph 9.2.1) in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The subject site is located approximately 1 km north-west of the nearest European Site, Knocksink Wood Special Area of Conservation (Site Code: 000725).

9.9.2 Having considered the nature, scale and location of the development, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- Having visited the site and reviewed the Environmental Protection Agency's AA Mapping Tool, I note that there are no direct hydrological connections between the subject site and any designated site. The nearest watercourse (the Glencullen river) is located approximately 260 metres southwest of the barn structure.
- Having regard to the distance from the European Sites regarding any other potential ecological pathways.
- Having regard to the nature and scale of the proposed development.

9.9.3 I conclude that on the basis of objective information, that the development would not likely have a significant effect on any European Site, either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.9.4 Therefore, having regard to the above, I am satisfied that the restriction highlighted under paragraph 9.7.5 above does not apply in this instance.

9.10 **Environmental Impact Assessment (EIA)**

In relation to EIA, I consider that the development (which I have determined to be exempted development, as set out above in paragraph 9.2.1) is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a preliminary examination or screening assessment.

10.0 **Recommendation**

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

WHEREAS questions have arisen as to:

(a) Whether the use of the barn at Fiery Lane, Glencullen for the purposes of a pottery manufacturing business is or is not development or is or is not exempted development,

(b) Whether the works carried out to the barn and the site are or are not development or are or are not exempted development,

(c) Whether the construction of the access road to serve the pottery manufacturing business is or is not development or is or is not exempted development, and

(d) Whether the laying of hardcore and fencing is or is not development or is or is not exempted development.

AND WHEREAS the said questions were referred to An Bord Pleanála by David Ridgway care of Doyle Kent Planning Partnership Limited of 71 Carysfort Avenue, Blackrock, Co. Dublin on the 11th of March 2024;

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

- (a) Sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act 2000, as amended,
- (b) Part 1 and Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (c) The submissions made in respect of the Declaration application and the referral,
- (d) The provisions of Dun Laoghaire Rathdown County Development Plan 2022-2028;
- (e) The pattern of development in the area, and
- (f) The report and recommendation of the Planning Inspector,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the use of the barn at Fiery Lane, Glencullen for the purposes of a pottery manufacturing business is not development,
- (b) the works carried out to the barn comprising provision of new corrugated metal cladding, a chimney flue, an external water tank, along with internal alterations associated with the pottery manufacturing business, is development and is exempted development,
- (c) the construction of the access road to serve the pottery manufacturing business is development and is exempted development, and
- (d) the laying of hardcore and fencing is development and is exempted development,

at the barn, located south-east of Granite Lodge, at Fiery Lane, Glencullen, Dublin.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the Planning and Development Act 2000, as

amended, hereby decides that (a) the change of use of the barn to a pottery manufacturing business is not a material change of use and is not development, on the basis that it is consistent with the established industrial and storage uses on the site, and that the said development as set out at (b) comprising provision of corrugated metal cladding to the barn, a chimney flue, an external water tank, along with internal alterations associated with the pottery manufacturing business, and at (c) comprising the construction of the access road to serve the pottery manufacturing business, and at (d) comprising the laying of hardcore and fencing, is development and is exempted development, all at the barn, located south-east of Granite Lodge, at Fiery Lane, Glencullen, Dublin.

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



John Duffy
Planning Inspector

5th December 2024