

Comhairle Chontae Atha Cliath Theas

PR/0800/22

Record of Executive Business and Chief Executive's Order

Register Reference: ED22/0013
Correspondence Name & Address: Kasper Feurer & Carmen Sánchez López
Plains View, Calliaghstown Upper,
Rathcoole, Co. Dublin.
Development: Replacement of an existing agricultural
shed with American Barn style horse
housing and storage as per S156
(Department of Agriculture, Food & the
Marine - Minimum Specification for Horse
Facilities and Fencing). The new barn will
be erected on the footprint of the existing
structure's concrete base, originally built
by previous owner around 2010. The
purpose of this is for the safe housing of
horses kept on the adjoining lands and
registered under the DAFM Equine
Premises #F130226X (see attachment
5_Equine-Premises-Registration-
Details.pdf).
Location: Plains View, Calliaghstown Upper,
Rathcoole, Co. Dublin.
Applicant: Kasper Feurer & Carmen Sánchez López

(EW)

Description of Site and Surroundings:

This rural site is located on the western side of Lees Lane, in the townland of Calliaghstown Upper, c. 2.5 km to the south of Rathcoole Village. The subject site comprises a house, shed, garage and agricultural lands in the rural area at Plains View, Calliaghstown Upper, Rathcoole.

Zoning:

The site is zoned 'HA-DM' in the South Dublin County Council Development Plan 2016-2022, the objective for which is *'to protect and enhance the outstanding natural character and amenity of the Dublin Mountains Area'*.

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Proposal:

This is an application requesting a Section 5 Declaration on whether the following works are or are not exempted development:

- **Demolish:** Replacement of an existing agricultural shed (130.97 sq.m) with
- **Construction:** American Barn style horse housing and storage as per S156 (Department of Agriculture, Food & the Marine – Minimum Specification for Horse Facilities and Fencing).
- The new barn will be erected on the footprint of the existing structure's concrete base, originally built by previous owner around 2010.
- The purpose of this is for the safe housing of horses kept on the adjoining lands and registered under the DAFM Equine Premises #F130226X (see attachment 5_Equine-Premises-Registration- Details.pdf).

This Section 5 Declaration application includes:

- Application form
- Site location map
- Existing Site Plans and Elevation of Shed
- Proposed Plans and Elevations (*Minimum Specifications for Horse Facilities*)

Site details:

- Area of site: 0.3 hectares
- Existing shed structure to be demolished: 130.97 sq.m
- Existing shed structure height: 5.16m
- Structure to be constructed: 131sq.m

Relevant Planning History:

ED18/0034 - Installation of a 6kW Solar PV system on the SE rear-facing garage roof at above property comprising residence, garage, sheds & 4 acres adjoining agricultural land with stable/shelter. The property is registered with the Department of Agriculture, Food & The Marine as an Equine Premises (Registration #:F130226X) and the outbuildings and lands are used for the rearing and training of Irish Sport horses - e.g., storage of agricultural machinery for maintenance of lands in garage, winter fodder in shed, etc.

SD14B/0150 Permission granted for retention of rear extension; side conservatory; Velux rooflight to front roof slope of existing dormer dwelling house; 2 no. semi-detached domestic sheds.

130.97

Pre Planning

None recorded.

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Relevant Enforcement History

None.

Assessment:

Consideration as to whether a development constitutes exempted development or not is governed by Sections 3, 4 and 5 of the Planning and Development Act 2000 (as amended) and Part 2 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?

Section 2(1) of the Planning and Development Act 2000 (as amended), states, '*works*' includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

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

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

'*use*' in relation to land, does include the use of the land by the carrying out of works thereon

Section 3(1) defines '*development*', except where the context otherwise requires, as '*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*'.

It is considered that the proposal, which would involve the **demolition** of an Industrial shed building, constitutes '*works*' and is therefore deemed to be '*development*'.

Demolish: Replacement of an existing agricultural shed (130.97 sq.m)

Is the proposal exempted development?

CLASS 50

(a) The demolition of a building or other structure, other than—

(i) a habitable house,

(ii) a building which forms part of a terrace of buildings, or

(iii) a building which abuts on another building in separate ownership.

(b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.

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Conditions and Limitations

No such building or buildings shall abut on another building in separate ownership.

2. The cumulative floor area of any such building, or buildings, shall not exceed:

(a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and

(b) in all other cases, 100 square metres.

3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.

The plans submitted indicate that the building proposed to be demolished would be 130.97 sq.m. Therefore, as the amount proposed is over 100sqm, the intended demolition is considered not to comply with Class 50.

Regarding the documentation submitted, the Planning Authority notes the precise location, size, scale and extent of the proposed warehouse seeking a declaration of exempted development has been outlined for demolition. Also presented is the replacement and further construction of the American Barn-style horse housing and storage.

Construction of the American Barn

Is the proposal exempted development?

Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) provides an exemption for,

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

The plans submitted indicate that the building would be 131sq.m in area and the intended use as horse and storage Barn is considered to comply with Class 9.

The conditions and limitations set out in column 2 apply: -

- 1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry but excluding the housing of animals or the storing of effluent.*
- 2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*
- 3. No such structure shall be situated within 10 metres of any public road.*
- 4. No such structure within 100 metres of any public road shall exceed 8 metres in height.*

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5. *No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*
6. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

In accordance with the above criteria:

- The proposed use is stated for agriculture storage and would house horses. However, the storage of effluent has not been declared.
- Other buildings on the site include a domestic garage and detached sheds outlined 100m southeast of the proposed structure. Combined the structures are not deemed to exceed the 900 square metres gross floor space in aggregate.
- The proposed structure would not be within 10 metres of a public road.
- The structure would not exceed 8 metres in height and would be: 5.16m in height.
- The proposed structure would be situated circa 70m from the neighbouring dwelling to the southeast. However, it is noted to comply with Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 that *'No such structure shall be situated within 100 metres'*, and the proposal would not comply.
- American Barn style exterior is proposed.

Following the above criteria and having regard to the Demolishing of an existing agricultural shed (130.97 sq.m) followed by the Construction of an American Barn style horse housing with storage:

The applicant has demonstrated that the shed structure is over 100 sq.m for demolition and does not comply with all the conditions and limitations for exemption under Class 50 of the Planning and Development Regulations 2001 (as amended).

The proposed structure would be situated circa 70m from the neighbouring dwelling to the southeast and would not comply with Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001.

In this context, the proposed development set out in the application is deemed not exempt.

Conclusion

Having regard to Class 50 of the Planning and Development Regulations 2001 (as amended) the Planning Authority considers, based on the information submitted that the proposed demolition of industrial shed building,

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- is development; and
- is not exempt development.

Recommendation

The applicant shall be written to and informed that the proposed development comprising the demolition and replacement of an agricultural building.

- (i) is Development and
- (i) is Not Exempted Development

and would require planning permission under the Planning and Development Act 2000 (as amended).


Colm Harte
Senior Executive Planner

ORDER: That the applicant be informed that the proposed development of Replacement of an existing agricultural shed with American Barn style horse housing and storage as per S156 (Department of Agriculture, Food & the Marine - Minimum Specification for Horse Facilities and Fencing). The new barn will be erected on the footprint of the existing structure's concrete base, originally built by previous owner around 2010. The purpose of this is for the safe housing of horses kept on the adjoining lands and registered under the DAFM Equine Premises #F130226X (see attachment 5_Equine-Premises-Registration-Details.pdf). at Plains View, Calliaghstown Upper, Rathcoole, Co. Dublin. is development and is not considered to be exempted development under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended) and therefore does require planning permission.

Date:

20/6/22


Eoin Burke, Senior Planner