

Comhairle Chontae Atha Cliath Theas

PR/0817/22

Record of Executive Business and Chief Executive's Order

Reg. Reference: ED22/0016 **Application Date:** 01-Jun-2022
Application Type: Declaration of **Registration Date:** 01-Jun-2022
Exemption Section 5

Correspondence Name and Address: Bernard Bradshaw Swallowfield., Killakee Road,
Woodtown, Rathfarnham, D16, D16 XO32

Proposed Development: Sheep/Farm shed on agricultural holding 19.2m x
9.14m x 5.18m (H) for flock number F1040746

Location: Swallowfield., Killakee Road, Woodtown,
Rathfarnham, D16, D16 XO32

Applicant Name: Bernard Bradshaw

(CS)

Description of Site and Surroundings:

The site of the subject application relates to a farm holding located at Killakee Road, Rathfarnham.

Zoning:

The site is zoned 'RU' in the South Dublin County Council Development Plan 2016-2022, the objective for which is '*To protect and improve rural amenity and to provide for the development of agriculture.*'

Proposal:

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

- Sheep/farm shed on agricultural holding 19.2m x 9.14m x 5.18m (H) for flock number F1040746.

Relevant Recent Planning History:

SD03B/0183: Single storey extension to the side and rear of the existing house.

Decision: **GRANT PERMISSION.**

S00A/0451: Dwelling house and septic tank to rear of existing dwelling.

Decision: **REFUSE PERMISSION.**

Appealed to ABP and was also **REFUSED PERMISSION** in April 2001.

Pre Planning

None recorded.

Relevant Enforcement History

None traced.

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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 3 of Schedule 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 proposed development, which would involve the construction of a farm building (detached agricultural shed) for agricultural purposes, constitutes '*works*' and '*development*'.

Is the proposal exempted development?

Sheds

Class 6 - Agricultural Structures, Exempted Development - Rural, Part 3 of Schedule 2, Planning and Development Regulations, 2001 (as amended);

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer, or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

Conditions & Limitations:

1. *No such structure shall be used for any purpose other than the purpose of agriculture.*

The proposed structures would be used for housing sheep.

2. *The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*

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The proposed structures would be c.175.4sq.m. No other similar structures are located within the same farmyard complex or within 100 metres of that complex.

3. *Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.*

No details relating to effluent storage facilities have been submitted as part of this application. **Additional information is required to provide these details.**

4. *No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*

The proposed farm building will not be situated within 10 metres of any public road.

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

The structure would not exceed 8m in height.

6. *No such structure shall be situated, and no effluent from such structure shall be stored, 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.*

The structure would be located within 100m of a neighbouring house and a letter of consent has been submitted confirming there is no objection to the erection of an agricultural shed on the subject site adjacent to their residential dwelling house. However it is not clear where any effluent from the structure shall be stored and the letter of consent does not indicate that, if effluent is stored within 100m, there is consent for this. **Additional information** is therefore requested.

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

The applicant has not indicated a colour on the drawings submitted for sheeting to roof and side walls to be painted. **Additional information** is therefore requested.

From the information submitted, it is not clear whether the proposal would comply with the conditions and limitations of Class 6 and could therefore be considered exempted development. Additional information should be sought regarding a number of matters. 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 cover letter states the proposal is for a sheep shed so Class 9 does not apply as 'sheep' is specified in class 6.

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Article 9

The proposed development is not restricted by any of the restrictions in Article 9 of the Planning and Development Regulations 2001 (as amended).

Conclusion

Having regard to the provisions of Section 4 of the Planning and Development Act 2000 (as amended), and Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended), it is considered that the following works:

- Sheep/Farm shed on agricultural holding 19.2m x 9.14m x 5.18m (H) for flock number F1040746

to be carried out at Swallowfield, Killakee Road, Woodtown, Rathfarnham, D16, D16 XO32 as detailed in the documentation submitted.

(A) is development

and

(B) It is not clear whether it is exempt development.

Recommendation

The applicant shall be written to and informed that the proposed development comprising Sheep/Farm shed on agricultural holding 19.2m x 9.14m x 5.18m (H) for flock number F1040746

- (i) **is Development and**
- (ii) **Additional information is required to determine whether or not it is exempt development.**

I recommend that **Additional Information Requested** be requested from the applicant with regard to the following:

1. In accordance with Class 6 - Agricultural Structures, Exempted Development - Rural, Part 3 of Schedule 2, Planning and Development Regulations, 2001 (as amended), Condition 3, the following should be met:
'Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution'.

The applicant is requested to provide details of how the above condition has been met.
2. In accordance with Class 6 - Agricultural Structures, Exempted Development - Rural, Part 3 of Schedule 2, Planning and Development Regulations, 2001 (as amended), Condition 6, the following should be met:
'No such structure shall be situated, and no effluent from such structure shall be stored, 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

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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.

The structure would be located within 100m of a neighbouring house and a letter of consent has been submitted confirming there is no objection to the erection of an agricultural shed on the subject site adjacent to their residential dwelling house. However it is not clear where any effluent from the structure shall be stored and the letter of consent does not indicate that. if effluent is stored within 100m, there is consent for this.

The applicant is requested to provide details of the relevant consent.

3. In accordance with Class 6 - Agricultural Structures, Exempted Development - Rural, Part 3 of Schedule 2, Planning and Development Regulations, 2001 (as amended), Condition 7, the following should be met:
'No unpainted metal sheeting shall be used for roofing or on the external finish of the structure'.

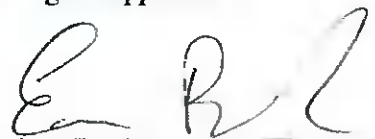
The applicant has not indicated a colour on the drawings . The applicant is requested to provide details of finishes for the proposed structure.



**Sarah Watson,
Executive Planner**

ORDER: That **ADDITIONAL INFORMATION** be requested from the applicant as set out above and that notice thereof be served on the Agent/Applicant.

Dated: 28/6/22



Eoin Burke, Senior Planner