

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 23/11

NAME OF APPLICANT: PETER MCVERRY TRUST.

ADDRESS:

ADDRESS FOR CORRESPONDENCE: C/O RDF ARCHITECTS, UNIT 19, CHARLEVILLE TOWN CENTRE, CHARLEVILLE, CO. CORK. P56 R228

NATURE OF APPLICATION: REQUEST FOR DECLARATION UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000, AS AMENDED AS TO WHETHER THE DEMOLITION OF EXISTING CHIMNEY ON DWELLING HOUSE WITH THE ROOF TO BE MADE GOOD AND DRESS INTO EXISTING IS OR IS NOT DEVELOPMENT AND IS OR IS NOT EXEMPTED DEVELOPMENT.

LOCATION OF DEVELOPMENT: SEFFIN, BIRR, CO. OFFALY. R42 P866.

WHEREAS a question referred to Offaly County Council on 25/04/2023 & 25/05/2023 as to whether the demolition of existing chimney on dwelling house with roof to be made good and dress into existing is or is not development and is or is not exempted development at Seffin, Birr, Co. Offaly. R42 P866 under the Planning and Development Act 2000, (as amended).


AND WHEREAS the Planning Authority, in considering this declaration request, had regard particularly to-

(a) Section 2, 3(1) and 4(1) (h) of the Planning & Development Act 2000 (as amended);

AND WHEREAS Offaly County Council has concluded that that the demolition of existing chimney on dwelling house with the roof to be made good and dress into existing is **development** and **is not exempted development** at Seffin, Birr, Co. Offaly.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5(2) (a) of the Planning and Development Act 2000 (as amended), hereby decides that the the demolition of existing chimney on dwelling house with the roof to be made good and dress into existing is **development** and **is not exempted development** at Seffin, Birr, Co. Offaly (R42 P866).

MATTERS CONSIDERED In making its decision, the Planning Authority had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.



Administrative Officer

Date 14/6/2023

Note: Any person issued with a Declaration may on payment to An Bord Pleanála, 64 Marlborough Street Dublin 2 of such fees as may be described refer a declaration for review by the board within four weeks of the issuing of the Declaration.

OFFALY COUNTY COUNCIL

Planning Report - Section 5 Declaration

File Reference:	Dec. 23/11
Question:	<p><i>Whether the demolition of existing chimney on dwelling and demolition of shared chimney with written consent from neighbour with the roof to be made good and dress into existing as shown is or is not development and is or is not exempted development.</i></p> <p>Amended as part of FI</p> <p><i>Whether the demolition of existing chimney on dwelling house with the roof to be made good and dress into existing as shown is or is not development and is or is not exempted development.</i></p>
Applicant:	<i>Peter McVerry Trust</i>
Correspondence Address:	<i>c/o RDF Architects, Unit 19, Charleville Town Centre, Charleville, Co. Cork. P56 R228.</i>
Location:	<i>Seffin, Birr, Co. Offaly. R42 P866.</i>

1. Proposal

As part of the FI response, the details of the proposed works have been altered and the question now being put to the Planning Authority is whether the demolition of existing chimney on dwelling with the roof to be made good and dress into existing as shown is or is not development and is or is not exempted development.

2. Review of Further Information

Further information (FI) was sought by the Planning Authority on the 19th May 2023 and subsequently received by the Planning Authority also on the 25th May 2023. This report should be read in conjunction with the previous planner's report dated 18th May 2023.

The following FI was sought and the response is as follows:

- (a) *The Applicant shall provide a set of appropriate plans/elevations which accurately reflect the response to Q.5 as per the submitted application form. In this regard, the Applicant shall note that the submitted plans/elevations show only the existing chimney within the dwelling and not the shared chimney with the neighbouring dwelling.*

The Applicant advises the works will only be carried out on the existing chimney within their property and not the shared chimney to the rear. A revised set of plans have been submitted.

- (b) *The Applicant shall provide an appropriate letter of consent from the adjoining landowner(s) regarding the proposed works.*

As the works will not affect the neighbouring property, this is not applicable.

3. Evaluation

Question: Whether the proposed works (as listed) to the existing dwelling are development?

In considering the proposed works against the definitions of 'development' and 'works' as provided in the Act, it is the view of the Planning Authority that the proposed work comprising of the removal of a chimney is deemed as development as it includes alterations and repairs to the existing dwelling.

Question: Is this proposal considered as Exempted Development?

Having regard to the provisions of Section 4 (1) (h) of the Act (as amended), it is the view of the Planning Authority that the removal of the existing chimney will materially alter the appearance of the dwelling so that its appearance would be inconsistent with the character of the structure. Its removal would also have a detrimental impact on the symmetry with the adjoining dwelling.



Photo 1: Subject Site on the right hand side.

It is therefore, the opinion of the Planning Authority that these works are not exempted development.

4. Recommendation

Having assessed the further information received and the previous planning report on file, it is the view of the Planning Authority that the proposed removal of an existing chimney as shown on the submitted documentation **is development and is not exempted development.**

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether the demolition of existing chimney on dwelling house with the roof to be made good and dress into existing is or is not development and is or is not exempted development at Seffin, Birr, Co. Offaly (R42 P866).

AS INDICATED on the particulars received by the Planning Authority on the 25th April 2023 and 25th May 2023,

AND WHEREAS Peter McVerry Trust c/o RDF Architects has requested a declaration on the said question from Offaly County Council;

AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to -

(a) Section 2, 3(1) and 4(1) (h) of the Planning & Development Act 2000 (as amended);

AND WHEREAS Offaly County Council has concluded that the demolition of existing chimney on dwelling house with the roof to be made good and dress into existing is development and is not exempted development.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the the demolition of existing chimney on dwelling house with the roof to be made good and dress into existing is **development and is not exempted development** at Seffin, Birr, Co. Offaly (R42 P866).

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.



Una McCafferkey
Executive Planner

9th June 2023

Date



Carroll Melia (A/Senior Executive Planner)

14th June 2023

Date

APPENDIX A

APPROPRIATE ASSESSMENT SCREENING REPORT FOR PLANNING APPLICATIONS




Screening is used to determine if an AA is necessary by examining:

- If the plan / project is directly connected with / necessary to the management of the European site.
- If the effects will be significant on a European site in view of its conservation objectives, either alone / in combination with other plans / projects.

Planning Authority: OCC

Planning Application Ref. No: DEC 23/11

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the demolition of existing chimney on dwelling and demolition of shared chimney with written consent from neighbour with the roof to be made good and dress into existing as shown is or is not development and is or is not exempted development.		
Site location:	Seffin, Birr, Co. Offaly. R42 P866.		
Site size:	Not provided	Floor Area of Proposed Development:	N/A.
Identification of nearby European Site(s):	Dovegrove Callows SPA – 2.81km Lisduff Fen SAC – 3.97km Sharavogue Bog SAC – 4.73km River Little Brosna Callows SPA – 6.12km All Saints Bog SPA – 7.49km Middle Shannon Callows SPA – 11.64km Slieve Bloom Mountains SPA – 11.73km Island Fen SAC – 6.2km Ballyduff/Clonfinane Bog SAC – 5.06km All Saints Bog and Esker SAC – 7.55km River Shannon Callows SAC – 11.63km		
Distance to European Site(s):	As above – all as crow flies		
The characteristics of existing, proposed or other approved plans / projects which may cause interactive / cumulative impacts with the project being assessed and which may affect the European site:	None		
Is the application accompanied by an EIAR?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>	
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
River Shannon Callows SPA – Features of interest include: <ul style="list-style-type: none"> Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510] Limestone pavements [8240] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Lutra lutra (Otter) [1355] Dovegrove Callows SPA – Features of interest include: <ul style="list-style-type: none"> Greenland White-fronted Goose (Anser albifrons flavirostris) [A395] Lisduff Fen SAC– Features of interest include: <ul style="list-style-type: none"> Petrifying springs with tufa formation (Cratoneurion) [7220] 			

Advice received from NPWS over phone:	None Received		
Summary of advice received from NPWS in written form (ATTACH SAME):	None Received		
(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:			
<i>(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).</i>			
If the answer is 'yes' to any of the questions below, then the effect is significant. (Please justify your answer. 'Yes' / 'No' alone is insufficient)			
Would there be...			
... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).	Not likely due to the location and type of development. The site is sufficient distance from the European site.		
... a reduction in habitat area on a European site?	There will be no reduction in the habitat area. The site is sufficient distance from the European site.		
... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the European site?	Not likely due to the location and type of development The site is sufficient distance from the European site.		
... serious / ongoing disturbance to species / habitats for which the European site is selected (e.g. because of increased noise, illumination and human activity)?	Not likely due to the location and type of development The site is sufficient distance from the European site.		
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?	None likely due to the location and type of development. The site is sufficient distance from the European site.		
Would the project interfere with mitigation measures put in place for other plans / projects. [Look at <i>in-combination effects</i> with completed, approved but not completed, and proposed plans / projects. Look at projects / plans within and adjacent to European sites and identify them]. Simply stating that there are no cumulative impacts' is insufficient.	No other plans known of in the vicinity of the site. The site is sufficient distance from the European site.		
(E) SCREENING CONCLUSION:			
Screening can result in:			
1.	AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.		
2.	No potential for significant effects / AA is not required.		
3.	Significant effects are certain, likely or uncertain. (In this situation seek a Natura Impact Statement from the applicant, or reject the project. Reject if too potentially damaging / inappropriate.		
Therefore, does the project fall into category 1, 2 or 3 above?	Category 2		
Justify why it falls into relevant category above:	There would be no likely significant impact on the European site from the proposed development due to the scale of the proposed development and the separation distance between the subject site and European Site.		
Name:	Úna McCafferkey 		
Position:	Executive Planner	Date:	9th June 2023

- Alkaline fens [7230]
 - *Vertigo geyeri* (Geyer's Whorl Snail) [1013]
- Sharavogue Bog SAC – Features of interest include:**
- Active raised bogs [7110]
 - Degraded raised bogs still capable of natural regeneration [7120]
 - Depressions on peat substrates of the Rhynchosporion [7150]
- River Little Brosna SPA – Features of Interest:**
- Whooper Swan (*Cygnus cygnus*) [A038]
 - Wigeon (*Anas penelope*) [A050]
 - Teal (*Anas crecca*) [A052]
 - Pintail (*Anas acuta*) [A054]
 - Shoveler (*Anas clypeata*) [A056]
 - Golden Plover (*Pluvialis apricaria*) [A140]
 - Lapwing (*Vanellus vanellus*) [A142]
 - Black-tailed Godwit (*Limosa limosa*) [A156]
 - Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
 - Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]
 - Wetland and Waterbirds [A999]
- Middle Shannon Callows SPA - Features of interest include:**
- Whooper Swan (*Cygnus cygnus*) [A038]
 - Wigeon (*Anas penelope*) [A050]
 - Corncrake (*Crex crex*) [A122]
 - Golden Plover (*Pluvialis apricaria*) [A140]
 - Lapwing (*Vanellus vanellus*) [A142]
 - Black-tailed Godwit (*Limosa limosa*) [A156]
 - Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
 - Wetland and Waterbirds [A999]
- All Saints Bog SPA - Features of interest include:**
- Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]
- Slieve Bloom Mountains SPA- Features of interest include:**
- Hen Harrier (*Circus cyaneus*) [A082]
- Ballyduff/Clonfinane Bog SAC - Features of interest include:**
- Active raised bogs [7110]
 - Degraded raised bogs still capable of natural regeneration [7120]
 - Depressions on peat substrates of the Rhynchosporion [7150]
 - Bog woodland [91D0]

The conservation objectives / qualifying interests of the site and the factors that contributes to the conservation value of the site: (which are taken from the European site synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) (ATTACH INFO.)

Site Name: Middle Shannon Callows SPA, Site Code: 004096

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004096.pdf>

Site Name: River Shannon Callows SAC, Site Code: 000216

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000216.pdf>

Site Name: Dovegrove Callows SPA, Site Code: 004137

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004137.pdf>

Site Name: Lisduff Fen SAC, Site Code: 002147

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002147.pdf>

Site Name: Sharavogue Bog, Site Code: 000585

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000585.pdf>

Site Name: River Little Brosna SPA, Site Code: 004086

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004086.pdf>

Site Name: All Saints Bog SPA, Site Code: 004103

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004103.pdf>

Site Name: Slieve Bloom Mountains SPA Site Code: 004160

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004160.pdf>

Site Name: Ballyduff/Clonfinane Bog SAC, Site Code: 000641

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000641.pdf>

(C) NPWS ADVICE: