

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 24/118

NAME OF APPLICANT: Board of Management, Mercy Primary School

ADDRESS FOR CORRESPONDENCE: c/o Kenny Lyons & Associates, Block 6, Central Business Park, Tullamore, Co. Offaly

NATURE OF APPLICATION: request for declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not works which form part of the Building Energy retrofit works including the replacement of existing windows, installation of breathable dry lining system, door replacement is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Mercy Primary School, Chapel Lane, Townparks, Birr, Co. Offaly, R42 TX89.

WHEREAS a question has arisen as to whether works which form part of the Building Energy retrofit works including the replacement of existing windows, installation of breathable dry lining system, door replacement is or is not development and is or is not exempted development at the Mercy Primary School (Old Convent School - Protected Structure 53-230 and 53-231) at Chapel Lane, Townparks, Birr, Co. Offaly, R42 TX89.

AS INDICATED on the particulars received by the Planning Authority on the 8th November 2024 and 13th January 2025.

AND WHEREAS the Board of Management Mercy Primary School c/o Kenny Lyons & Associates, Block 6, Central Business Park, Tullamore, Co. Offaly 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 –


- Sections 3(1); 4(1)(h); and 57 of the Planning & Development Act 2000 (as amended).

AND WHEREAS Offaly County Council has concluded that the works 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 proposed works which form part of the Building Energy retrofit works including the replacement of existing windows, installation of breathable dry lining system, door replacement **is development and is not exempted development** at the Mercy Primary School (Old Convent School - Protected Structure 53-230 and 53-231) at Chapel Lane, Townparks, Birr, Co. Offaly, R42 TX89.

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 include any submissions and observations received by it in accordance with statutory provisions.


Administrative Officer


Date

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.

Planning Report

Section 5 Declaration

File Reference:	Dec. 24/118
Question:	<i>Whether or not replacement of existing windows, installation of breathable dry lining system, door replacement at Old Convent School protected structure 53-230 and 53-231 is or is not development and is or is not exempted development</i>
Applicant:	<i>B.O.M Mercy Primary School</i>
Correspondence Address:	<i>c/o Kenny Lyons & Associates, Block 6, Central Business Park, Tullamore</i>
Location:	<i>Mercy Primary School, Chapel Lane, Townparks, Birr, Co. Offaly, R42 TX89</i>

SECOND REPORT

1. Introduction

The question has arisen as whether works which form part of the Building Energy retrofit works including the replacement of existing windows, installation of breathable dry lining system, door replacement at the Mercy National School is or is not development and is or is not exempted development.

2. Review and Evaluation of Further Information

Further information (FI) was sought by the Planning Authority a response was subsequently received by the Planning Authority on the 13th January 2025.

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

- Given that the structures on site are protected (RPS ref. 53-230 and 53-231), please submit an Architectural Impact Assessment in accordance with the requirements of the Architectural Heritage Protection Guidelines 2004 regarding the proposed works.*

Note to applicant: As an alternative to the above request the applicant may wish to consider a Section 57(2) declaration as to the type of works which Offaly County Council considers would or would not materially affect the character of the structure. The applicant should note this is carried out by the OCC Conservation Architect.

In response, the Applicant has provided a Conservation Impact Assessment (CIA) prepared by their agent, Kenny Lyons Associates Architects and is dated December 2024.

The Planner notes that the preface of the CIA states that the assessment was prepared to support a Section 57 Declaration Application.

In this regard, the Planner refers to the Section 57 (ref. 27. 2411) decision which was issued by Offaly County Council on the 23rd January 2025:

**OFFALY COUNTY COUNCIL
DECLARATION UNDER SECTION 57 OF THE
PLANNING & DEVELOPMENT ACTS 2000, as amended.**

Works which would materially affect the character of the protected structure and, as a result, require planning permission:

Note this is a Partial S57 Declaration relating to works to the Old Convent School Building RPS no. 53-230 and Boyd Barret type building (former Scoil Iosep Naofa) RPS no 53-231:

1. The application as presented proposes a variety of alterations to the existing Protected Structure. The cumulative effect of the proposed alterations, doors, windows, walls and services, would materially alter the Protected Structure and hence require Planning Permission. As part of a planning application ensure panelling and architraves are retained and not affected by the proposed installation of the drylining. Care also to be taken with external wall insulation in particular at eaves and barge location where details were not included.

Works which would not materially affect the character of the protected structure and as a result would not require planning permission:

Note this is a Partial S57 Declaration relating to works to the Old Convent School Building RPS no. 53-230 and Boyd Barret type building (former Scoil Iosep Naofa) RPS no 53-231:

1. Items of essential repair and routine maintenance in accordance with Department Conservation Guidelines including localised repairs.

Special Remarks

The application as presented proposes a variety of alterations to the existing Protected Structure. The cumulative effect of the proposed alterations, doors, windows, walls and services, would materially alter the Protected Structure and hence require Planning Permission. As part of a planning application ensure panelling and architraves are retained and not affected by the proposed installation of the drylining. Care also to be taken with external wall insulation in particular at eaves and barge location where details were not included.

The decision of this Section 5 application will reflect the decision of the Section 57 application which was issued for the same subject site and proposed works. The Applicant will be advised that the proposed works are not exempted development and do require planning permission.

3. Assessment

A screening exercise for an appropriate assessment has been carried out and it is concluded that the development is unlikely to have significant effects on any European sites.

4. Environmental Impact Assessment Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001- 20 (as amended) and therefore is not subject to EIA requirements. See appendix A attached.

5. Conclusion

Having assessed the response to the request for further information and the previous planning report on file, it is concluded that the proposed works which form part of the Building Energy retrofit works including the replacement of existing windows, installation of breathable dry lining system, door replacement at the Mercy Primary School 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 works which form part of the Building Energy retrofit works including the replacement of existing windows, installation of breathable dry lining system, door replacement is or is not development and is or is not exempted development at the Mercy Primary School (Old Convent School - protected structure 53-230 and 53-231) at Chapel Lane, Townparks, Birr, Co. Offaly, R42 TX89.

AS INDICATED on the particulars received by the Planning Authority on the 8th November 2024 and 13th January 2025;

AND WHEREAS the Board of Management Mercy Primary School c/o Kenny Lyons & Associates, Block 6, Central Business Park, Tullamore, Co Offaly 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) Sections 3(1); 4(1)(h); and 57 of the Planning & Development Act 2000 (as amended).

AND WHEREAS Offaly County Council has concluded that the works 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 proposed works which form part of the Building Energy retrofit works including the replacement of existing windows, installation of breathable dry lining system, door replacement **is development and is not exempted development** at the Mercy Primary School (Old Convent School - protected structure 53-230 and 53-231) at Chapel Lane, Townparks, Birr, Co. Offaly, R42 TX89.

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.



Úna McCafferkey

Executive Planner

29th January 2025

Date



Ed Kelly

(A/Senior Executive Planner)

29th January 2025

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 24/118

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether or not replacement of existing windows, installation of breathable dry lining system, door replacement at Old Convent School protected structure 53-230 and 53-231 is or is not development and is or is not exempted development		
Site location:	Mercy Primary School, Chapel Lane, Townparks, Birr, Co. Offaly, R42 TX89		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Dovegrove Callows SPA – 2.1km Lisduff Fen SAC – 4.76km Ballyduff/Clonfinane Bog SAC – 4.65km River Little Brosna Callows SPA – 5.307m All Saints Bog SPA – 6.48km		
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?		No: X	
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
<p>Dovegrove Callows SPA - Features of interest include:</p> <ul style="list-style-type: none"> • Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) <p>Lisduff Fen SAC - Features of interest include:</p> <ul style="list-style-type: none"> • Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220] • Alkaline fens [7230] • <i>Vertigo geyeri</i> (Geyer's Whorl Snail) [1013] <p>Ballyduff/Clonfinane Bog SAC - Features of interest include:</p> <ul style="list-style-type: none"> • Active raised bogs [7110] • Degraded raised bogs still capable of natural regeneration [7120] • Depressions on peat substrates of the <i>Rhynchosporion</i> [7150] • Bog woodland [91D0] <p>River Little Brosna Callows SPA - Features of interest include:</p> <ul style="list-style-type: none"> • Whooper Swan (<i>Cygnus cygnus</i>) [A038] • Wigeon (<i>Anas penelope</i>) [A050] • Teal (<i>Anas crecca</i>) [A052] • Pintail (<i>Anas acuta</i>) [A054] • Shoveler (<i>Anas clypeata</i>) [A056] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Lapwing (<i>Vanellus vanellus</i>) [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]
- All Saints Bog SPA - Features of interest include:
- Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]

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

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

Site Name: River Little Brosna Callows 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>

(C) NPWS ADVICE:

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:

(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).

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?

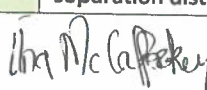
Not likely due to the location and type of development. The site is sufficient distance from the European site.

... 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.

<p>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.</p>		<p>No other plans known of in the vicinity of the site. The site is sufficient distance from the European site.</p>	
<p>(E) SCREENING CONCLUSION:</p>			
<p>Screening can result in:</p>			
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: 29 th January 2025

