

OFFALY COUNTY COUNCIL
DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 17/3

NAME AND ADDRESS OF APPLICANT: Heidi Pohl, [REDACTED]

ADDRESS FOR CORRESPONDENCE: [REDACTED]

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Acts 2000, as amended as to whether a change from jet print business to beauty salon and associated works is considered exempt under Class 33(c) of the Planning and Development Regulations 2001 as amended

LOCATION OF DEVELOPMENT: Bridge Lane, Tullamore, Co. Offaly.

WHEREAS a question referred to Offaly County Council on 28th February 2017 has arisen as to whether a change from jet print business to beauty salon and associated works at Bridge Lane, Tullamore, Co. Offaly is considered exempt under Class 33(c) of the Planning and Development Regulations 2001 as amended..

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

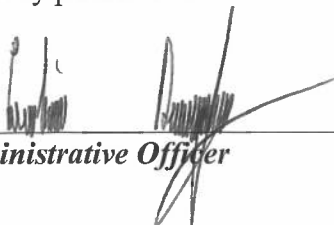
- (a) Section 2 of the Planning and Development Act, 2000, as amended.
- (b) Section 3 of the Planning and Development Act, 2000 as amended.
- (c) Article 5 of the Planning and Development Regulations as amended.
- (d) Article 6 of the Planning and Development Regulations 2001, as amended.
- (e) Part 4 Schedule 2 Classes 2 and 3 of the Planning and Development Regulations as amended.

AND WHEREAS Offaly County Council has concluded that –

The proposed development **IS Development** and **IS Exempted Development**.

NOW THEREFORE Offaly County Council, in exercise of powers conferred on it by Section 5 (2) of the Planning and Development Act 2000, as amended, hereby decides that the change from jet print business to beauty salon and associated works at Bridge Lane, Tullamore, Co. Offaly **Is Development** and **Is Exempted Development**.

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

7/4/2017
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 Dec 17/3

Re: Section 5 Declaration

A question has arisen as to whether:

Change from jet print business to beauty salon.

and associated works at Bridge Lane Co Offaly is/is not development and is or is not exempted development.

Assessment

As part of further information the applicant has submitted a site location map.

I refer to the above. I have inspected the site and noted and considered the submissions on file. I would consider the proposed changes to be development having considered Sections 3 of the Planning & Development Act 2000 as amended.

Section 2

2.— (1) In this Act, except where the context otherwise requires—

“development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly;

Section 3:

3.—(1) In this 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.

The planning history of the site is as follows:

Tu 228889 Thomas Ghee granted permission in 1989 to extend printing works

Tu 212288 Thomas Ghee granted in 1998 permission for residential flat & shop unit

I note that the site is somewhat difficult to identify as floor plans have been submitted but no site location map.

I note the following definition of shop under article 5 of the planning and development regulations as amended:

‘shop’ means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public –

(a) for the retail sale of goods,

(b) as a post office,

(c) for the sale of tickets or as a travel agency,

(d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and "wine" is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act, 1910), 10 Edw. 7. & 1 Geo. 5, c.8,
(e) for hairdressing,
(f) for the display of goods for sale,
(g) for the hiring out of domestic or personal goods or articles,
(h) as a launderette or dry cleaners,
(i) for the reception of goods to be washed, cleaned or repaired, but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph
(d),
or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;

Part 4 Schedule 2 classes 2 and 3 consist of the following:

CLASS 2

Use for the provision of— (a) financial services, (b) professional services (other than health or medical services), (c) any other services (including use as a betting office), where the services are provided principally to visiting members of the public.

CLASS 3 Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

Beauty salon can be considered to be other professional services.

It is considered that a printing business where a retail element is present can be defined as other professional services.

I would therefore recommend that the following Managers Order issue

WHEREAS a question has arisen as to whether the:

Change from jet print business to beauty salon.

At Bridge Lane Co Offaly and associated works is development and is or is not exempted development.

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

- (a) Section 2 of the Planning & Development Act 2000 as amended and
- (b) Sections 3 of the Planning & Development Act 2000 as amended and
- (c) Article 5 of the planning and development regulations as amended
- (d) Article 6 of the Planning and development regulations 2001 as amended

(e) Part 4 Schedule 2 classes 2 and 3 of the planning and development regulations as amended

AND WHEREAS Offaly County Council has concluded that –

The proposed works is development and is exempted development.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) hereby decides that the

Change from jet print business to beauty salon.

at At Bridge Lane Co Offaly Co Offaly and associated works is development and is exempted development.



Ed Kelly
Exec Planner
5/4/2017

Letter rep 5/4/17

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 17/3**

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:

Proposed development:	Change from jet print business to beauty salon	
Site location:	Bridge Lane Co Offaly	
	0.02ha.s.	
Identification of nearby European Site(s):	2000 site(s): SAC 000571– Charleville Wood SAC	
Distance to European Site(s):	2km	
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 EIS?		No: ☒

(B) IDENTIFICATION OF THE RELEVANT European SITE(S):

The reasons for the designation of the European site:	
Charleville Wood is considered to be one of the very few ancient woodlands remaining in Ireland, with some parts undisturbed for at least 200 years. 'Old Oak woodland is a habitat listed on Annex I of the EU Habitats Directive, while the rare snail species, <i>Vertigomoulin siana</i>, is listed on Annex II of this directive. The wetland areas, with their associated bird populations, the rare insect and Myxomycete species contribute further to the conservation significance of the site.	
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 Natura 2000 site synopses and, if applicable, a	

Conservation Management Plan; all available on www.npws.ie) (**ATTACH INFO.**)

To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected: Code Description 91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles * denotes a priority habitat Code Common Name Scientific Name 1016 Desmoulin's Whorl Snail Vertigo moulinsiana

(C) NPWS ADVICE:

Advice received from NPWS over phone:	None received
---------------------------------------	---------------

(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:

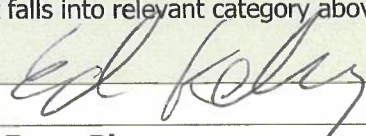
*(The purpose of this is to identify if the effect(s) identified could be significant – if **uncertain** assume the effect(s) are significant).*

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
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.	<i>AA is not required</i> because the project is directly connected with / necessary to the nature conservation management of the site.		
2.	<i>No potential for significant effects / AA is not required.</i>		
3.	<i>Significant effects are certain, likely or uncertain.</i> (In this situation seek a NIS 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 European sites from the proposed development.	
Name:			
Position: Exec. Planner		Date:	5/4/2017

L. Linteen
sep
5/4/17

SITE SYNOPSIS

SITE NAME: CHARLEVILLE WOOD

SITE CODE: 000571

Charleville Wood is a large Oak woodland surrounded by estate parkland and agricultural grassland located about 3 km south-west of Tullamore. The site, which is underlain by deep glacial deposits, includes a small lake with a wooded island, and a stream runs along the western perimeter. The woodland is considered to be one of very few ancient woodlands remaining in Ireland, with some parts undisturbed for at least 200 years.

Some 10% of the woodland has been underplanted with conifers and other exotic trees, but the rest of the area is dominated by Pedunculate Oak (*Quercus robur*).

Apart from Oak, there is much Ash (*Fraxinus excelsior*) and scattered Wych Elm (*Ulmus glabra*), while Birch (*Betula* spp.) is a feature of the boggy margins. The shrub layer is composed largely of Hazel (*Corylus avellana*), Hawthorn (*Crataegus monogyna*) and Blackthorn (*Prunus spinosa*). The ground layer is varied, including damp flushed slopes with Ramsons (*Allium ursinum*) and drier, more open areas with a moss sward composed largely of *Rhytidiadelphus triquetris*. The fungal flora of the woodland is notable for the presence of several rare Myxomycete species, namely *Hemitrichia calyculata*, *Perichaena depressa*, *Amaurochaete atra*, *Collaria arcyronema*, *Stemonitis nigrescens* and *Diderma deplanata*. A number of unusual insects have also been recorded in Charleville Wood, notably *Mycetobia obscura* (Diptera), a species known from only one other site in Ireland. The site is also notable for the presence of a large population of the rare snail species, *Vertigo moulinsiana*.

Extensive swamps of Bulrush (*Typha latifolia*) and Bottle Sedge (*Carex rostrata*) have developed in the lake shallows. The lake is an important wildfowl habitat – it supports populations of Mute and Whooper Swan and a number of duck species, including Teal, Wigeon, Shoveler, Pochard and Tufted Duck. The wooded island at its centre is famed for its long history

of non-disturbance. Hazel, Spindle (*Euonymus europaeus*) and Ivy (*Hedera helix*) reach remarkable sizes here.

Charleville Wood is one of the most important ancient woodland sites in Ireland. The woodland has a varied age structure and is relatively intact with both areas of closed canopy and open areas with regenerating saplings present. The understorey and ground layers are also well represented. Old Oak woodland is a habitat listed on Annex I of the EU Habitats Directive, while the rare snail species, *Vertigomoulina siana*, is listed on Annex II of this directive. The wetland areas, with their associated bird populations, the rare insect and Myxomycete species contribute further to the conservation significance of the site.

6.12.1999

Conservation objectives for Charleville Wood SAC [000571]

The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. These habitats and species are listed in the Habitats and Birds Directives and Special Areas of Conservation and Special Protection Areas are designated to afford protection to the most vulnerable of them. These two designations are collectively known as the Natura 2000 network. European and national legislation places a collective obligation on Ireland and its citizens to maintain habitats and species in the Natura 2000 network at favourable conservation condition. The Government and its agencies are responsible for the implementation and enforcement of regulations that will ensure the ecological integrity of these sites. The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. Favourable conservation status of a habitat is achieved when: • its natural range, and area it covers within that range, are stable or increasing, and • the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and • the conservation status of its typical species is favourable. The favourable conservation status of a species is achieved when: • population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and • the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and • there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis. Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected: Code Description 91A0 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles * denotes a priority habitat Code Common Name Scientific Name 1016 Desmoulin's Whorl Snail *Vertigo moulinsiana*

Citation: NPWS (2015) Conservation objectives for Charleville Wood SAC [000571]. Generic Version 4.0. Department of Arts, Heritage and the Gaeltacht.
13/02/2015