

The Secretary,  
Planning Section,  
Offaly County Council  
Áras an Chontae,  
Charleville Road,  
Tullamore,  
Co. Offaly.

2nd May 2017



**Referral**

**Re:** Whether the use of buildings A, B, C and D in accordance with the uses specified is or is not development or is or is not exempted development.

Millhouse, Killeenmore, Tullamore, Co. Offaly.

Dear Sir/Madam,

Enclosed is a copy of a referral under the Planning and Development Acts 2000 to 2014.

In order to comply with section 128 of the Planning and Development Act 2000 please forward, **within a period of 2 weeks** beginning on the day on which a copy of the referral is sent to you, copies of any information in your possession which is relevant to the referral, including

15<sup>th</sup> May 2017.

- (i) details of previous decisions affecting the site;
- (ii) any correspondence that has taken place between the person(s) issued with a declaration under subsection (2)(a) of section 5 of the 2000 Act and the planning authority.
- (iii) the name and address of the owner of the land in question and the name of the occupier of the said land, if different;
- (iv) where no declaration was issued by you, indicate the date that the referral was due to be issued in accordance with subsection (2) of section 5 of the 2000 Act.

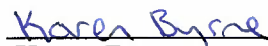
In accordance with section 129 of the 2000 Act you may make submissions or observations in writing to the Board in relation to the referral within a **period of 4 weeks** beginning on the date of this letter.

29<sup>th</sup> May, 2017

Any submissions or observations received by the Board outside of that period shall not be considered and where none have been validly received, the Board may determine the referral without further notice to you.

Please quote the above referral number in any further correspondence.

Yours faithfully,



Karen Byrne  
Administrative Assistant  
Direct Line:01-8737169

Encl.  
BPRL07

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 17/5

NAME AND ADDRESS OF APPLICANT:

Niall Stack, [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 the use of buildings denoted as A,B,C and D in accordance with the uses specified under Class 14(f) of Part 1 of schedule 2 of the Planning and Development Regulations 2001 as amended and associated works is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT:

Mill House, Killeenmore, Tullamore, Co. Offaly.

**WHEREAS** a question referred to Offaly County Council on 10<sup>th</sup> March 2017 has arisen as to whether the use of buildings denoted as A, B, C and D in accordance with the uses specified under Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 as amended and associated works at Mill House, Killeenmore Co. Offaly is or is not a development and is or is not exempted development **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 6 of the Planning and Development Regulations 2001 as amended.
- (d) Schedule 2, Part 1, Class 14(f) of the Planning and Development Regulations 2001 as amended

**AND WHEREAS** Offaly County Council has concluded that –

The proposal (consisting of the use of buildings denoted as A, C and D in accordance with the uses specified under Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001) **Is Development and Is Not Exempted Development.**

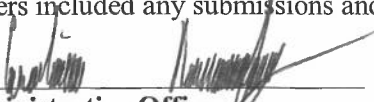
The proposal (consisting of the use of a building denoted as B in accordance with the uses specified under Class 14(f) of Part 1 of Schedule 2 of the Planning and development Regulations 2001) **Is Development and Is Exempted Development.**

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

The proposal (consisting of the uses specified under Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001) to units defined in this declaration as A, D and C at Mill House Killeenmore, Tullamore, Co. Offaly **Is Development and Is Not Exempted Development.**

The proposal (consisting of the uses specified under Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001) to a unit defined in this declaration as B at Mill House, Killeenmore, 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

5/4/2017  
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 17/5

## Re: Section 5 Declaration

A question has arisen as to whether:

The use of buildings denoted as A,B,C and D in accordance with the uses specified under Class14(f) of Part 1 of schedule 2 of the planning and development regulations 2001 as amended

and associated works at Mill House, Killeenmore Co Offaly is/is not development and is or is not exempted development.

### Assessment

I refer to the above. I have inspected the site and noted and considered the submissions on file.

The following is relevant to this assessment.

Planning and development Act as amended:

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;

“house” means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

### 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.

Planning and development Regulations as amended:

6. (1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development

complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

#### SCHEDULE 2, PART 1,

Change of use CLASS 14 Development consisting of a change of use—

(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

Subject to the following condition:

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

This declaration relates to four building, three of which have planning permissions.  
The relevant planning permission for the four buildings are as follows:

Building A PL2 94/77 BENI GERBER granted PRIVATE OFFICE, BOILER HOUSE AND OIL STORAGE TANK IN EXISTING BUILDINGS

Building B PL2 95/7 BENI GERBER granted CONVERSION OF EXISTING BLOCK INTO 3 NO. HOLIDAY FLATS

Building C PL2 95/140 BENI GERBER granted GARAGE AND CAR PARK

Building D Agricultural buildings are shown on the site location map in the declaration.

The works subject of this declaration come within the definition of development. I note that an exemption under Class14(f) of Part 1 of schedule 2 in the planning regulations would not be required if the activity was not within the scope of the defined term of development.

It is noted that the exemption can not apply to buildings A, D and C as no exemption for a change of use to social use exists for such buildings.

Unit B consists of holiday flats. No planning condition restricts the occupancy of the units and I consider that the units could therefore be used as normal housing units.

On this basis and given the definition of house in the planning acts to include apartments I consider that these housing units could be used for the purposes detailed in Class14(f) of Part 1 of schedule 2 of the planning and development regulations 2001 as amended.

I would therefore recommend that the following <sup>EXECUTIVE'S</sup> ~~Manager's~~ Order issue

**WHEREAS** a question has arisen as to whether the:

The use of buildings denoted as A,B,C and D in accordance with the uses specified under Class14(f) of Part 1 of schedule 2 of the planning and development regulations 2001 as amended.

and associated works at Mill House, Killeenmore Co Offaly is/is not development and is or is not exempted development.

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

- (a) Sections 2 of the Planning & Development Act 2000 as amended and
- (b) Sections 3 of the Planning & Development Act 2000 as amended and
- (c) Article 6 of the Planning and development regulations 2001 as amended
- (d) Schedule 2, Part 1, Class 14 (f) of the Planning and development regulations 2001 as amended

**AND WHEREAS** Offaly County Council has concluded that –

The proposal (consisting of the use of buildings denoted as A, C and D in accordance with the uses specified under Class14(f) of Part 1 of schedule 2 of the planning and development regulations 2001) is development and is not exempted development.

The proposal (consisting of the use of a building denoted as B in accordance with the uses specified under Class14(f) of Part 1 of schedule 2 of the planning and development regulations 2001) 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

The proposal (consisting of the uses specified under Class14(f) of Part 1 of schedule 2 of the planning and development regulations 2001) to units defined in this declaration as A, D and C at Mill House, Killeenmore Co Offaly is development and is not exempted development.

The proposal (consisting of the uses specified under Class14(f) of Part 1 of schedule 2 of the planning and development regulations 2001) to a unit defined in this declaration as B at Mill House, Killeenmore Co Offaly is development and is exempted development.

  
**Ed Kelly**  
**Exec Planner**  
**3/4/2017**

*Amended 4/4/17*

## 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 17/5**

### (A) DESCRIPTION OF PROJECT AND LOCAL SITE:

|                                                                                                                                                                                                       |                                                                                                                                                                                        |                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| Proposed development:                                                                                                                                                                                 | The use of buildings denoted as A,B,C and D in accordance with the uses specified under Class14(f) of Part 1 of schedule 2 of the planning and development regulations 2001 as amended |                                         |
| Site location:                                                                                                                                                                                        | Mill House, Killeenmore Co Offaly                                                                                                                                                      |                                         |
|                                                                                                                                                                                                       | 0.42ha.s                                                                                                                                                                               |                                         |
| Identification of nearby European Site(s):                                                                                                                                                            | <b>2000 site(s): SAC 000571– Charleville Wood SAC</b>                                                                                                                                  |                                         |
| Distance to European Site(s):                                                                                                                                                                         | <b>5 Kms</b>                                                                                                                                                                           |                                         |
| 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: | <b>None</b>                                                                                                                                                                            |                                         |
| Is the application accompanied by an EIS?                                                                                                                                                             |                                                                                                                                                                                        | No: <input checked="" type="checkbox"/> |

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

|                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The reasons for the designation of the European site: | <p>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.</p> |
|-------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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](http://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

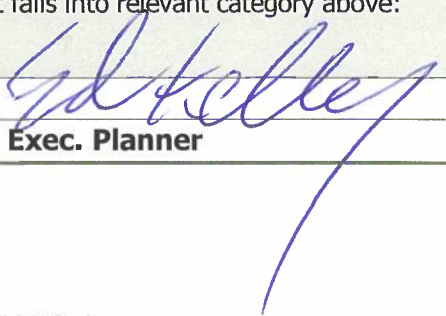
Would the project interfere with mitigation measures put in place for other plans / projects. [Look at *in-combination effects* with completed, approved but not completed, and proposed plans / projects. Look at projects / plans within and adjacent to European sites and identify them]. Simply stating 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? |                                                                                                                                                                                           | <b>Category 2</b>                                                                                   |                 |
| Justify why it falls into relevant category above:              |                                                                                                                                                                                           | <b>There would be no likely significant impact on European sites from the proposed development.</b> |                 |
| <b>Name:</b>                                                    |                                                                                                          |                                                                                                     |                 |
| <b>Position:</b>                                                | <b>Exec. Planner</b>                                                                                                                                                                      | <b>Date:</b>                                                                                        | <b>4/4/2017</b> |

## 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 arcyrionema*, *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, *Vertigomoulin 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