

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

REFERENCE: DEC 17/7

NAME AND ADDRESS OF APPLICANT: Ronan Clarke, [REDACTED]
[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 construction of a proposed grain store is considered exempt under Class 33(c) of the Planning and Development Regulations 2001 as amended

LOCATION OF DEVELOPMENT: Coolderry House, Coolderry, Birr, Co. Offaly.

WHEREAS a question referred to Offaly County Council on 18th May 2017 has arisen as to whether the construction of a proposed grain store at Coolderry House, Coolderry, Birr, 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-

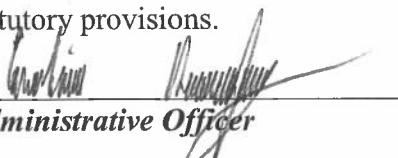
- (a) Section 2(1) of the Planning and Development Act, 2000, as amended.
- (b) Section 3(1) of the Planning and Development Act, 2000 as amended.
- (c) Section 4(1) of the Planning and Development Act, 2000 as amended.
- (d) Schedule 2, Part 3, Class 9 of the Planning and Development Regulations 2001 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 construction of a proposed grain store at Coolderry House, Coolderry, Birr, 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

9/6/2017
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 S.5 Dec 17/7

Section 5 Declaration

Applicant: Ronan Clarke.

A Question has arisen as to whether:

The construction of a proposed grain store is exempted development.

Address of correspondence: Ronan Clarke, [REDACTED]
[REDACTED]

Location of development: at Coolderry House, Coolderry, Birr, Co Offaly

Whereas a question has arisen as to whether the above is development and is exempted development.

Development Plan Policy: The subject site is located within an aquifer protection zone within the open countryside.

SITE HISTORY

None.

LEGISLATIVE FRAMEWORK

In order to assess whether or not the proposal constitutes development and exempted development, regard must be had to the following items of legislation:

Planning and Development Act, 2000 as amended
Section 2 provides a definition of:

“Works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

Section 3 provides a definition of development.

S.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.

Section 4 provides for Exempted Development

S4(1) the following shall be exempted developments for the purposes of this act
(a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used.

PROPOSAL BY APPLICANTS:

The applicant wishes to establish whether the construction of a grain store is exempted development.

ASSESSMENT:

Planning and Development Regulations 2001 as amended:

Class 9

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.

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.
2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.
3. No such structure shall be situated within 10 metres of any public road.
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
5. No such structure shall be situated 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.

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

The applicant has submitted details regarding the proposed grain store and also site location maps. Please refer to the site layout drawing giving details of the grain store.

Class 9

The proposed grain store is 182.4sqm in size. The permitted gross floor area shall not exceed 300sqm.

It is noted that no structure is in excess of 8m in height. No structure is within 100m of any house (other than the house of the person providing the structure). No such structure shall be within 10m of a public road. The proposed grain store is 6m in height, is not within 10m of a public road and is not within 100m of a house and is 225m away from the farm complex.

Conclusion:

Having considered Section 2, 3 & 4 of the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 as amended the proposed development is considered to be Development and is Exempted Development.

Suz O'Toole

S O'Toole A.P
2nd June 2017

L. Mitchell
6/6/17

WHEREAS a question has arisen as to whether:

The construction of a proposed grain store is considered exempted development.

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

- (a) Section 2 (1) of the Planning and Development Act, 2000 as amended
- (b) Section 3 (1) of the Planning and Development Act, 2000 as amended
- (c) Section 4 (1)(a) of the Planning and Development Act, 2000 as amended
- (d) Schedule 2, Part 3, Class 9 of the Planning and Development Regulations 2001 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) hereby decides that the construction of the proposed grain store **IS Development** and is **Exempted** development at this location in Coolderry House, Coolderry, Birr, Co. Offaly.

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. S5 Dec 17/7

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Construction of Grain Store		
Site location:	Coolderry House, Coolderry, Birr		
Site size:	0.ha	Floor Area of Proposed Development:	182sqm
Identification of nearby European Site(s):	Lisduff fen SAC		
Distance to European Site(s):	3.7km as the 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 EIS?	Yes: ☐	No: X ☐	
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):	Petrifying Springs with Tufa formation, Alkaline Fens, Geyer's Whorl Snail		
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.)			
PLEASE SEE SITE SYNOPSIS and CONSERVATION OBJECTIVES SHEETS ATTACHED.			
(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)

<i>Would there be...</i> ... 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 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
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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.
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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: Suzanne O'Toole

Position:	Assistant Planner	Date:	2nd June 2017
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Date: 2nd June 2017

Suzanne Ture L. Mitchell rep
6/6/7

SITE SYNOPSIS

SITE NAME: LISDUFF FEN

SITE CODE: 002147

Lisduff Fen is situated about 4 km south-east of Birr in County Offaly. Its exact location is at the north-east quarter of Kilcolman crossroads.

The site comprises a wet calcareous fen, with typical fen and marsh species such as Black Bog-rush (*Schoenus nigricans*), Common Reed (*Phragmites australis*), Few-flowered Spike Rush (*Eleocharis quinqueflora*) and Grass of Parnassia (*Parnassia palustris*). This habitat corresponds to alkaline fen, a habitat that is listed on Annex I of the EU Habitats Directive. Included as part of the fen system are areas of wet grassland, some Birch (*Betula* sp.) and Willow (*Salix* sp.) scrub, and some vegetation more akin to that of raised bog with species such as Ling Heather (*Calluna vulgaris*) and Bog Myrtle (*Myrica gale*). There is a small stand of Scots Pine (*Pinus sylvestris*) at the eastern marginal area. On the western side, the fen merges into wet grassland which has been improved to varying degrees for pasture.

A fast-flowing stream which flows into the fen at the south end is heavily encrusted with calcium carbonate or 'tufa' deposits (i.e. stones, mosses, etc.). Bryophytes recorded include *Fontinalis antipyretica*, *Amblystegium riparium*, *Aneura pinguis* and *Rhynchostegium riparioides*. Higher plants in the stream include Branched Bur-reed (*Sparganium erectum*), Watercress (*Nasturtium officinale*) and Water Mint (*Mentha aquatica*). While key diagnostic bryophytes of the Cratoneurion were not recorded, this vegetation is considered to correspond to the E.U. Habitats Directive Annex I habitat Petrifying springs with tufa formation.

Of major conservation and scientific significance is the presence on the site of a population of the rare snail *Vertigo geyeri*. This species occurs in northern and central Europe, its distribution extending from Ireland in the west to the European Russian states in the east. It is probably a European endemic and is considered to be a glacial relict. Its distribution is very scattered and fragmented and most populations are fairly isolated. In particular, the Irish populations are very isolated from the main European range of the species. Throughout its entire range it is classified as being endangered, vulnerable or rare. *Vertigo geyeri* is listed on Annex II of the E.U. Habitats Directive.

Vertigo geyeri is a species associated with calcareous fens, where it occurs at the base of small sedges (*Carex* spp.) and Black Bog-rush (*Schoenus nigricans*), where these are growing at the water edge. The sites are often in open, tufa-forming calcareous spring flushes with a stable water table and of mesotrophic type.

A survey in 1995 confirmed the presence of the species at Lisduff. The habitat was considered to be excellent for the species and there were no apparent threats. However, a small site such as Lisduff could easily be damaged or destroyed by drainage activities.



13/02/2015

Generic Conservation Objective

Citation: NPWS (2015) Conservation objectives for Lisduff Fen SAC [002147]. Generic Version 4.0.
Department of Arts, Heritage and the Gaeltacht.