

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 21/12

NAME OF APPLICANT: IAN & TRUDY COLTON

ADDRESS



ADDRESS FOR CORRESPONDENCE:



**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether a roofed shed for horses and donkeys and their fodder, a lean to shed attached to the above used as a store for agricultural equipment, a small shed used to house a trailer and associated works is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** Carton East Co Offaly

**WHEREAS** a question referred to Offaly County Council on 06/04/2021 as to whether a roofed shed for horses and donkeys and their fodder, a lean to shed attached to the above used as a store for agricultural equipment, a small shed used to house a trailer and associated works at Carton East Co Offaly is or is not development and is or is not exempted development under the Planning and Development Act 2000, (as amended).

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

- (a) Sections 2 and of the Planning & Development Act 2000 as amended and
- (b) Sections 3 and of the Planning & Development Act 2000 as amended and
- (c) S.I. No. 86/1994 - Local Government (Planning and Development) Regulations, 1994, Second Schedule , Part 3, Class 6
- (d) Planning and Development Regulations 2001, as amended, Schedule 2, Part 3 Class 9

**AND WHEREAS** Offaly County Council has concluded that the works is considered development and is exempted development.

**NOW THEREFORE** Offaly County Council, in exercise of powers conferred on it by Section 5 (2)(a) of the Planning and Development Act 2000, as amended hereby decides that a roofed shed for horses and donkeys and their fodder, a lean to shed attached to the above used as a store for agricultural equipment, a small shed used to house a trailer and associated works at Carton East 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.

  
A/Senior Executive Officer

6/5/2021  
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 21/12

## Re: Section 5 Declaration

Applicant; Ian and Trudi Colton, [REDACTED]

A question has arisen as to whether:

- A roofed shed for horses and donkeys and their fodder
- A lean to shed attached to the above used as a store for agricultural equipment
- A small shed used to house a trailer

and associated works at Carton East 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. 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.

I have inspected the site and noted the presence of donkeys on site.

The site is situated in the countryside of County Offaly on green fields in the area denoted as works in the map included with this report, to the rear of an existing house.



The livestock shed was built in 1998 and therefore S.I. No. 86/1994 - Local Government (Planning and Development) Regulations, 1994 would have been the applicable regulations at the time of construction:

#### Agricultural Structures CLASS 6

Works consisting of the provision of a roofed structure for the housing of pigs, cattle, sheep, goats, poultry, donkeys, horses, deer or rabbits, having a floor area not exceeding 300 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

1. No such structure shall be used for any purpose other than the purpose of agriculture.

2. The total area of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 450 square metres floor area in aggregate.

3. Effluent storage facilities adequate to serve the structure having regard to its size, use, location and the need to avoid water pollution shall be provided.

4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.

5. No such structure within 100 metres of any public road shall exceed 8 metres in height.

6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any dwellinghouse (other than the dwellinghouse 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.

The livestock shed is 193sq metres in area and is 4.2 metres in height. The shed is within 100 metres of three houses. Written consent from two adjoining house owners have been submitted. On this basis I consider the livestock shed exempted development.

In terms of the store trailer and the store the following exemption from the Planning and development regulations 2001 (as amended) is applicable:

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.

Subject to:

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 store shed and store trailer have a total floor area of 91sqm and the heights of the sheds do not exceed 4 metres in height.

**Recommendation;**

I would therefore consider that the works as outlined above is development and is exempted development.

A handwritten signature in black ink, appearing to read "Ed Kelly". The signature is fluid and cursive, with a long horizontal stroke at the end.

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**Ed Kelly**  
**Exec Planner**  
**5/5/2021**

A handwritten signature in black ink, appearing to read "Carroll Melia". The signature is written in a cursive style with a distinct loop at the end.

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**Carroll Melia**  
**A/ Senior Executive Planner**  
**5<sup>th</sup> May 2021**

**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:

- A roofed shed for horses and donkeys and their fodder
- A lean to shed attached to the above used as a store for agricultural equipment
- A small shed used to house a trailer

At Carton East, County Offaly and associated works is or is not development and is or is not exempted development.

**AND WHEREAS** Ian and Trudi Colton 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 2 and of the Planning & Development Act 2000 as amended and
- (b) Sections 3 and of the Planning & Development Act 2000 as amended and
- (c) S.I. No. 86/1994 - Local Government (Planning and Development) Regulations, 1994, Second Schedule , Part 3, Class 6
- (d) Planning and Development Regulations 2001, as amended, Schedule 2, Part 3 Class 9

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

The works is considered 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

- A roofed shed for horses and donkeys and their fodder
- A lean to shed attached to the above used as a store for agricultural equipment
- A small shed used to house a trailer

at Carton, East Co Offaly and associated works is development and is exempted development.

## 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 Application Ref. No.DEC**

**21/12**

| (A) DESCRIPTION OF PROJECT AND LOCAL SITE:                                                                                                                                                            |                                                                                                                                                                                                                                                |       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| Proposed development:                                                                                                                                                                                 | <ul style="list-style-type: none"> <li>A roofed shed for horses and donkeys and their fodder</li> <li>A lean to shed attached to the above used as a store for agricultural equipment</li> <li>A small shed used to house a trailer</li> </ul> |       |
| Site location:                                                                                                                                                                                        | Carton East, Tullamore                                                                                                                                                                                                                         |       |
| Identification of nearby European Site(s):                                                                                                                                                            | 2000 site(s): SAC 000571– Charleville Wood SAC                                                                                                                                                                                                 |       |
| Distance to European Site(s):                                                                                                                                                                         | 6.17km                                                                                                                                                                                                                                         |       |
| 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: ✓ |
| (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, *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.

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 <b>uncertain</b> assume the effect(s) are significant).                   |                                                         |
| If the answer is 'yes' to any of the questions below, then the effect is significant.<br>(Please justify your answer. 'Yes' / 'No' alone is insufficient)           |                                                         |
| <b>Would there be...</b><br>... any impact on an Annex 1 habitat?<br>(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.                                                                                                                            |                                                                                                     |
|                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                    |                                                                                                     |
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|                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                    |                                                                                                     |
| <b>(E) SCREENING CONCLUSION:</b>                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                    |                                                                                                     |
| <b>Screening can result in:</b>                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                    |                                                                                                     |
| 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 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>                                                                                                                                                                                                                                                                                                                                                             | Ed Kelly                                                                                                                                                                           |                                                                                                     |
| <b>Position:</b>                                                                                                                                                                                                                                                                                                                                                         | Exec. Planner                                                                                                                                                                      | <b>Date:</b> 5/5/2021                                                                               |

Given the location the nature and size of the development applied for and the characteristics of European sites in the vicinity it is considered that 500 metres should be used as a potential zone of impact of the project in accordance with section 3.2.3 of the appropriate assessment guidelines. There are no European sites within 500 metres of the development applied for and therefore no significant effects on any European sites either alone or in combination with other plans and projects.

#### **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, *Vertigo moulinsiana*, 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