

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

REFERENCE: DEC 21/01

NAME OF APPLICANT:

ARTHUR ELLIOTT (COOLDERRY) COMMUNITY CCTV SCHEME
C/O MS. MARY HANLEY

ADDRESS

ADDRESS FOR CORRESPONDENCE:

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the installation of 15 no. community CCTV cameras and an associated transmitter wireless link at 11 no. locations throughout the Coolderry Area is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: 11 No. Locations Throughout the Coolderry Area

WHEREAS a question referred to Offaly County Council on 06/01/2021 as to whether the installation of 15 no. community CCTV cameras and an associated transmitter wireless link at 11 no. locations throughout the Coolderry Area 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, 3 and 4 of the Planning and Development Act 2000 (as amended);
- (b) Article 6 and Article 9 of the Planning and Development Regulations 2001 (as amended)

AND WHEREAS Offaly County Council has concluded that:

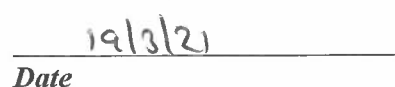
- The community CCTV cameras and an associated transmitter wireless link at all 11 no. locations **is development**;
- The community CCTV cameras and an associated transmitter wireless link at Location 1 (Coolderry Community Hall); Location 2 (Jackie's Cross); Location 3 (Conmy's House); Location 4 (St. Colman's Church and Parochial House); Location 6 (Tom Shaw Farm Machinery Ltd); Location 7 (Bracken's Cottage); Location 9 (Brereton's Bar); Location 11 (Bannon Cottage); and, Location 13 (Shed at Cree House) **is exempted development** under the exemption provided by Section 4 (1)(h) of the Planning and Development Act 2000, as amended.
- The community CCTV cameras and an associated transmitter wireless link at Location 10 (Murray's Forge) and Location 12 (O'Meara Yard) **is not exempted development** in accordance with Article 9(1)(a)(iii).

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 community CCTV cameras and an associated transmitter wireless link at all 11 no. locations **is development**;
 - The community CCTV cameras and an associated transmitter wireless link at Location 1 (Coolderry Community Hall); Location 2 (Jackie's Cross); Location 3 (Conmy's House); Location 4 (St. Colman's Church and Parochial House); Location 6 (Tom Shaw Farm Machinery Ltd); Location 7 (Bracken's Cottage); Location 9 (Brereton's Bar); Location 11 (Bannon Cottage); and, Location 13 (Shed at Cree House) **is exempted development** under the exemption provided by Section 4 (1)(h) of the Planning and Development Act 2000, as amended.
 - The community CCTV cameras and an associated transmitter wireless link at Location 10 (Murray's Forge) and Location 12 (O'Meara Yard) **is not exempted development** in accordance with Article 9(1)(a)(iii).
- at 11 No. Locations Throughout the Coolderry Area

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


Date

Note: Any person issued with a Declaration may on payment to An Bord Pleanála, 64 Marlborough Street Dublin 2 of such fees as may be described refer a declaration for review by the board within four weeks of the issuing of the Declaration.

Planning Report - Section 5 Declaration

File Reference:	Dec 21/01
Question:	<i>Whether the installation of 15 no. community CCTV cameras and an associated transmitter wireless link at 11 no. locations within the Coolderry Community and surrounding area is or is not development and is or is not exempted development?</i>
Applicant:	Arthur Elliott (Coolderry) Community CCTV Scheme c/o Ms Mary Hanley
Correspondence Address:	
Location:	At 11 no. locations throughout the Coolderry Area.

SECOND REPORT ON FILE

1. Introduction

The question is whether the installation of 15 no. community CCTV cameras and an associated transmitter wireless link at 11 no. locations within the Coolderry Community and surrounding area is or is not development and is or is not exempted development.

2. Review of Further Information

Further information (FI) was sought by the Planning Authority on 2nd February 2021 and subsequently received by the Planning Authority on 2nd March 2021. This report should be read in conjunction with the previous planner's report dated 2nd February 2021. The following FI was sought and the response is as follows:

- (a) *No details on 'DVR Storage' has been provided with the application. The Applicant is required to submit appropriate details including dimensions of apparatus.*

The Applicant has submitted a printout of the manufacturers brochure for the DVR storage which confirms that the dimensions are 315mm (W) x 240mm (D) x 48mm (H). The response also includes a brochure for wall mounting cabinets; it would appear that the DVR storage will be placed within these cabinets on an external wall (location not specified) at Locations 1, 3 and 4. There are a range of cabinets shown on the brochure with the smallest being 550mm (w) x 450mm (D) x 325mm (H) right up to the largest which is 600mm (w) x 600mm (D) x 990mm (H). The Planner notes that these are small in size and can be placed at a suitable location close by to the camera.

- (b) *Location No. 1 - Coolderry Community Hall: To avoid additional visual clutter on the front elevation of the building, the Applicant is required to review the location of the camera and consider mounting the camera closer to the roof apex (similar to the broadband transmitter) without breaking the roofline of the building.*

The Applicant has submitted a revised elevation which shows the location of the camera as requested.

- (c) *Location 4 - St. Colman's Church and Parochial House: Being within the location of the light pole with this vicinity of a Protected Structure, it is important that any proposed structures or works are in keeping with the setting of the adjoining Parochial House*

and Kilcolman Church. The Applicant is required to submit a colour sample of the proposed finish of the camera and association structures. The colour shall be in keeping with the colour of the existing street works to ensure that the camera does not have a negative visual impact on the area.

In response, the Applicant has submitted two photographs which confirm that the camera and associated structures will be black which is the same colour of the existing street works at this location.

(d) Location 10 (as listed by Applicant) - Murray's Forge: As the existing building is located adjacent to the N62, a national route, the application has been referred to Transport Infrastructure Ireland (TII). The Planning Authority await their response and advise the Applicant that amendments to this element of the application may be required as a result.

On the 25th February 2021, the Planning Authority received a referral response from TII. They state:

It is noted that the proposals outlined in the Section V referral relate to installation of CCTV cameras and associated equipment at 11 separate locations. Two locations adjoin the N62, national road, at a location where a 100kph speed limit applies;

- *Murrays Forge, and*
- *O'Mearas Yard.*

At both locations, it is proposed to install CCTV equipment on existing structures adjoining the national road. It is unclear that any road safety considerations have been taken into account in relation to the proposed siting of the CCTV equipment on structures adjoining the national road, including considerations related to future maintenance.

TII considers it inappropriate that structures such as those proposed adjoining a high-speed section of national road are considered for accommodating CCTV cameras that will require accessibility for installation and on-going maintenance and may create a traffic hazard.

In the event that such works are consented to by the Council, TII outlines the following observations:

- *All works shall fully comply with the standards outlined in the TII Publications.*
- *Any costs arising from the installation of the proposal or related to the maintenance and upkeep of the proposal will be the responsibility of the applicant and/or local authority.*
- *TII will entertain no future claims in respect of impacts on the proposed development due to the presence of the existing road or any new road scheme which is currently in planning.*

Having discussed the matter with the Road Design Engineer and Area Engineer, they are in agreement with TII and confirm that in their opinion, Location No. 10 is not suitable for the erection of a CCTV camera.

- (e) *Location 11 (as listed by Applicant) - Bannon Cottage: The Applicant is required to confirm the overhang of the proposed camera over the adjacent grass road verge; an appropriate illustration to demonstrate should be submitted as part of the response.*

The Planner notes that on further review of the submitted drawings (both initial and FI response, the camera does not overhand the adjacent grass road verge.

- (f) *Location 11 (as listed by Applicant) - Bannon Cottage: The Applicant is required to submit a letter of consent from the appropriate landowner(s).*

The Applicants have submitted a letter of consent from the appropriate landowner.

- (g) *Location 12 (as listed by Applicant) - O'Meara Yard: As the existing building is located adjacent to the N62, a national route, the application has been referred to TII. The Planning Authority await their response and advise the Applicant that amendments to this element of the application may be required as a result.*

Please refer to Item (d) above.

Having discussed the matter with the Road Design Engineer and Area Engineer, they are in agreement with TII and confirm that in their opinion, Location No. 12 is not suitable for the erection of a CCTV camera.

- (h) *The Applicant is required to provide details of how the following will be carried out safely in locations which are adjacent to public roads:*
- (i) *Installation;*
 - (ii) *Cleaning;*
 - (iii) *Maintenance; and,*
 - (iv) *Adjustment of the cameras.*
- (i) *The Applicant is required to provide written reassurance that those responsible for carrying out the procedures referred to in Item (h) above will have the appropriate public liability insurance cover; traffic management training; and, working at heights training.*

In responding to Items (h) and (i), the Applicants have submitted an 'Installation Declaration' which notes the following:

- Installation: In compliance with Section 38(3)(C), installation of the CCTV camera will only be carried out by a Public Security Authority (PSA) approved licenced installers who will be required to provide proof of Public Liability Insurance Cover and the relevant Health and Safety in the Workplace Certifications particularly where working at heights and traffic. *The Planner adds that this is referring to the Garda Síochána Act 2005.*
- Maintenance: A maintenance contract will be put in place to ensure the system is maintained in full working order. The contract with the Installation Contractor will include the provision of a regular maintenance schedule and maintenance callout procedure with suitable response times. The Contractor will be required to hold a supply of recommended spare parts for maintenance purposes.
- Warranty: A warranty period of not less than 12 months from commissioning and acceptance of the system will be put in place as part of the installation contract.

- **Operator Equipment Training:** There will be 2 nominated operators or supervisors who shall receive training in the use of the equipment, Operator training shall be provided by the Contractor and will provide the participant with a thorough working knowledge of the system.

The Planning Authority and the Area Engineer are satisfied with the response of the Applicant.

3. Evaluation

Having reviewed the Applicants response to the RFI, the Planner concludes the following:

a) "Is or is not Development"

As the proposed works comprises of the erection of a CCTV cameras, support brackets and associated transmitter wireless link, it is considered that the works are 'development' in accordance with section 3(1) of the Planning and Development Act, 2000, as amended.

b) "Is or is not Exempted Development"

With regard to the following locations:

- Location 1 - Coolderry Community Hall.
- Location 2 - Jackie's Cross.
- Location 3 - Conmy's House.
- Location 4 - St. Colman's Church and Parochial House.
- Location 6 - Tom Shaw Farm Machinery Ltd.
- Location 7 - Bracken's Cottage.
- Location 9 - Brereton's Bar.
- Location 11 - Bannon Cottage.
- Location 13 - Shed at Cree House.

The Planning Authority are satisfied that the camera and support structures fall into an exemption provided by Section 4 (1)(h) of the Planning and Development Act 2000 as amended, as they constitute development which will not materially affect the external appearance or character of the structure.

With regard to the following locations:

- Location 10 - Murray's Forge.
- Location 12 - O'Meara Yard.

The Planning Authority does not deem the cameras at these locations as exempted development. In reaching this conclusion, they refer to Article 6 of the Planning and Development Regulations 2001 (as amended) which states, *inter alia*, that:

"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".

Article 9 states:

9 (1): Development to which article 6 relates shall not be exempted development for the purposes of the Act - (a) if the carrying out of such development would –

(iii) endanger public safety by reason of traffic hazard or obstruction of road users.

4. Recommendation

Based on the information provided by the Applicant on the 6th January 2021 and 2nd March 2021, it is recommended that the development as described in the application at all 11 no. locations is development.

With regard to Location 1 - Coolderry Community Hall; Location 2 - Jackie's Cross; Location 3 - Conmy's House; Location 4 - St. Colman's Church and Parochial House; Location 6 - Tom Shaw Farm Machinery Ltd; Location 7 - Bracken's Cottage; Location 9 - Brereton's Bar; Location 11 - Bannon Cottage; and, Location 13 - Shed at Cree House is exempted development.

With regard to Location 10 - Murray's Forge and Location 12 - O'Meara Yard is not exempted development.

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether the installation of 15 no. community CCTV cameras and an associated transmitter wireless link at 11 no. locations within the Coolderry Community and surrounding area is or is not development and if so, is or is not exempted development.

AND WHEREAS Arthur Elliott (Coolderry) Community CCTV Scheme c/o Ms Mary Hanley requested a declaration on the said question from Offaly County Council;

AND WHEREAS Offaly County Council as the Planning Authority, in considering this declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);
- Article 6 and Article 9 of the Planning and Development Regulations 2001 (as amended)

AND WHEREAS Offaly County Council has concluded that –

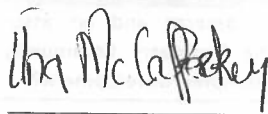
- The community CCTV cameras and an associated transmitter wireless link at all 11 no. locations is development;
- The community CCTV cameras and an associated transmitter wireless link at Location 1 (Coolderry Community Hall); Location 2 (Jackie's Cross); Location 3 (Conmy's House); Location 4 (St. Colman's Church and Parochial House); Location 6 (Tom Shaw Farm Machinery Ltd); Location 7 (Bracken's Cottage); Location 9 (Brereton's Bar); Location 11 (Bannon Cottage); and, Location 13 (Shed at Cree House) is exempted development under the exemption provided by Section 4 (1)(h) of the Planning and Development Act 2000, as amended.
- The community CCTV cameras and an associated transmitter wireless link at Location 10 (Murray's Forge) and Location 12 (O'Meara Yard) is not exempted development in accordance with Article 9(1)(a)(iii).

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that:

- The community CCTV cameras and an associated transmitter wireless link at all 11 no. locations is development;
- The community CCTV cameras and an associated transmitter wireless link at Location 1 (Coolderry Community Hall); Location 2 (Jackie's Cross); Location 3 (Conmy's House); Location 4 (St. Colman's Church and Parochial House); Location 6 (Tom Shaw Farm Machinery Ltd); Location 7 (Bracken's Cottage); Location 9 (Brereton's Bar); Location 11 (Bannon Cottage); and, Location 13 (Shed at Cree House) is exempted development under the exemption provided by Section 4 (1)(h) of the Planning and Development Act 2000, as amended.

- The community CCTV cameras and an associated transmitter wireless link at Location 10 (Murray's Forge) and Location 12 (O'Meara Yard) **is not exempted development** in accordance with Article 9(1)(a)(iii).

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.



Úna McCafferkey
Assistant Planner

19th March 2021
Date



Carroll Melia
(A/Senior Executive Planner)

19th March 2021
Date

APPENDIX A

APPROPRIATE ASSESSMENT SCREENING REPORT FOR PLANNING APPLICATIONS



Screening is used to determine if an AA is necessary by examining:

- If the plan / project is directly connected with / necessary to the management of the European site.
- If the effects will be significant on a European site in view of its conservation objectives, either alone / in combination with other plans / projects.

Planning Authority: OCC

Planning Application Ref. No: DEC 21/01

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the installation of 15 no. community CCTV cameras and an associated transmitter wireless link at 11 no. locations within the Coolderry Community and surrounding area is or is not development and is or is not exempted development?		
Site location:	11 no. locations throughout Coolderry & surrounding area.		
Site size:	Not specified	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Using Coolderry Sráid as the location: - Lisduff Fen SAC – 4.53km - Slieve Bloom Mountains SPA – 4.93km - Sharavogue Bog SAC – 5.49km - Island Fen SAC – 5.62km - Slieve Bloom Mountains SAC – 8.28km		
Distance to European Site(s):	As above – all as crow flies		
The characteristics of existing, proposed or other approved plans / projects which may cause interactive / cumulative impacts with the project being assessed and which may affect the European site:	None		
Is the application accompanied by an EIAR?	Yes: ☐	No: ☒	
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
Lisduff Fen SAC- Features of interest include: - Petrifying springs with tufa formation (Cratoneurion) [7220] - Alkaline fens [7230] - Vertigo geyeri (Geyer's Whorl Snail) [1013] Slieve Bloom Mountains SPA- Features of interest include: - Hen Harrier (Circus cyaneus) [A082] Sharavogue Bog SAC- Features of interest include: - Active raised bogs [7110] - Degraded raised bogs still capable of natural regeneration [7120] - Depressions on peat substrates of the Rhynchosporion [7150] Island Fen SAC- Features of interest include: - Juniperus communis formations on heaths or calcareous grasslands [5130] - Alkaline fens [7230] Slieve Bloom Mountains SAC - Features of interest include: - Northern Atlantic wet heaths with Erica tetralix [4010]			

- Blanket bogs (* if active bog) [7130]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae) [91E0]

The conservation objectives / qualifying interests of the site and the factors that contributes to the conservation value of the site: (which are taken from the European site synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) (ATTACH INFO.)

Site Name: Lisduff Fen SAC

Site Code: 002147

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002147.pdf>

SITE NAME: Slieve Bloom Mountains SPA

SITE CODE: 004160

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004160.pdf>

Site Name: Sharavogue Bog SAC

Site Code: 000585

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000585.pdf>

Site Name: Island Fen SAC

Site Code: 002236

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002236.pdf>

Site Name: Slieve Bloom Mountains SAC

Site Code: 000412

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000412.pdf>

(C) NPWS ADVICE:

Advice received from NPWS over phone:

None Received

Summary of advice received from NPWS in written form (ATTACH SAME):

None Received

(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:

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

If the answer is 'yes' to any of the questions below, then the effect is significant.
(Please justify your answer. 'Yes' / 'No' alone is insufficient)

Would there be...

... any impact on an Annex 1 habitat?
(Annex 1 habitats are listed in Appendix 1 of AA Guidance).

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

... a reduction in habitat area on a European site?

There will be no reduction in the habitat area.
The site is sufficient distance from the European site.

... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the European site?

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

... serious / ongoing disturbance to species / habitats for which the European site is selected (e.g. because of increased noise, illumination and human activity)?

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

... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?	None likely due to the location and type of development The site is sufficient distance from the European site		
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	
Justify why it falls into relevant category above:		There would be no likely significant impact on the European site from the proposed development due to the scale of the proposed development and the separation distance between the subject site and European Site.	
Name:	Úna McCafferkey 		
Position:	Assistant Planner	Date:	19 th March 2021