

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

REFERENCE: DEC 22/18

NAME OF APPLICANT: Mary Delaney

ADDRESS:



ADDRESS FOR CORRESPONDENCE: C/O Pamela Weldon
42 Crann Nua,
Portarlinton,
Co. Laois

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not the construction of a single storey shed for the storage of personal protective equipment (PPE) to provide to care staff working within the community during the ongoing Covid crisis and all associated works is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Clonminch Road, Gayfield, Co Offaly.

WHEREAS a question referred to Offaly County Council on 26/08/2022 as to whether or not the construction of a single storey shed for the storage of personal protective equipment (PPE) to provide to care staff working within the community during the ongoing Covid crisis and all associated works at Clonminch Road, Gayfield 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) Section 2 of the Planning & Development Act 2000, as amended and
- (b) Sections 3 of the Planning & Development Act 2000, as amended and
- (c) Sections 4 of the Planning & Development Act 2000, as amended and
- (d) Schedule 2, of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that the construction of a single storey shed for the storage of personal protective equipment (PPE) to provide to care staff working within the community during the ongoing Covid crisis and all associated works **is development and is not exempted development**.

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 construction of a single storey shed for the storage of personal protective equipment (PPE) to provide to care staff working within the community during the ongoing Covid crisis and all associated works **is development** and **is not exempted development** at Clonminch Road, Gayfield, Co Offaly.

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

22/9/2022

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 22/18

Re: Section 5 Declaration

A question has arisen as to whether:

The construction of a single storey shed for the storage of personal protective equipment (PPE) to provide to care staff working within the community during the ongoing Covid crisis and all associated works at Clonminch Road, Gayfield Co Offaly is development and is not exempted development.

Assessment:

The footprint of the proposed development is proposed to the rear of an existing office unit. I note an existing steel shed in the general location of the development shown in the drawings submitted with this declaration. Please see photos at the end of this report.

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 note that the proposal is a shed for an existing office building. I am aware of no provisions to exempt such developments in either the planning regulations, the planning acts or in other legislation particularly having regard to section 4 of the planning acts and schedule 2 of the planning regulations.

Appropriate assessment

A screening exercise for an appropriate assessment has been carried out and it has been deemed that the development is unlikely to have significant effects on any European sites. Please see attached report.

Other than the European sites addressed in the AA no other AA is potentially within the zone of influence of the project.

Recommendation:

I would therefore recommend that the following Managers CE order be issued that the construction of a single storey shed for the storage of personal protective equipment (PPE) to provide to care staff working within the community and all associated works at Clonminch Road, Gayfield Co Offaly is development and 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 construction of a single storey shed for the storage of personal protective equipment (PPE) to provide to care staff working within the community and all associated works at Clonminch Road, Gayfield Co Offaly is development and is not exempted development.

AND WHEREAS Mary Delaney 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) Section 2 of the Planning & Development Act 2000, as amended and
- (b) Sections 3 of the Planning & Development Act 2000, as amended and
- (c) Sections 4 of the Planning & Development Act 2000, as amended and
- (d) Schedule 2, of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that –

The proposed works is development and is not exempted development.

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

Construction of a single storey shed for the storage of personal protective equipment (PPE) to provide to care staff working within the community and all associated works

at Clonminch Road, Gayfield Co Offaly **is development and is not exempted development.**



Ed Kelly
Executive Planner
21/9/2022

Carroll Melia

Carroll Melia
A/Senior Executive Planner
22nd September 2022

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.

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(A) DESCRIPTION OF PROJECT AND LOCAL SITE:		
Proposed development:	Construction of a single storey shed for the storage of personal protective equipment (PPE) to provide to care staff working within the community and all associated works	
Site location:	Clonminch Road, Gayfield Co Offaly	
Site area	0.12Ha.s.	
Floor Area	62sqm	
Identification of nearby European Site(s):	2000 site(s): SAC 000571– Charleville Wood SAC	
Distance to European Site(s):	1.6kms	
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:		

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets are Natura 2000 codes): [91E0] Alluvial Forests* [1016] Desmoulin's Whorl Snail (*Vertigo moulinsiana*)

The conservation objectives / qualifying interests of the site and the factors that contributes to the conservation value of the site: (which are taken from the Natura 2000 site synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) (ATTACH INFO.)

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 91E0 Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae)* * 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.	Not likely due to the location and type of development

water quality and supply, soil compaction) in the European site?	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.	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?	Category 2
Justify why it falls into relevant category above:	There would be no likely significant impact on European sites from the proposed development.

Name:	Ed Kelly		
Position:	Exec. Planner	Date:	21/9/2022

