

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 23/17

NAME OF APPLICANT: Van Gillessen

ADDRESS: Wood Of O, Tullamore, Co Offaly, R35 X0H3

ADDRESS FOR CORRESPONDENCE: Wood Of O, Tullamore, Co Offaly, R35 X0H3

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as whether the construction of a concrete base and to erect steel cladding to provide a storage shed and to build interior bathrooms and ancillary services is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Tullamore Canoe Club, 27th Lockhouse, Clara Bridge, Rahan Road, Tullamore, Co. Offaly, R35 FX98

WHEREAS A question referred to Offaly County Council 30/06/2023 as to whether the construction of a concrete base and to erect steel cladding to provide a storage shed and to build interior bathrooms and ancillary services at Tullamore Canoe Club, 27th Lockhouse, Clara Bridge, Rahan Road, Tullamore, Co. Offaly, R35 FX98 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.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Article 6(1) of the Planning and Development Regulations 2001, as amended
- (d) Article 9 of the Planning and Development Regulations 2001, as amended
- (e) Schedule 2 Part 1, Class 33

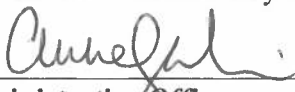
AND WHEREAS Offaly County Council has concluded that –

- The work is considered 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 concrete base and to erect steel cladding to provide a storage shed and to build interior bathrooms and ancillary services is development and is not 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

21/7/2023

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.

OFFALY COUNTY COUNCIL

Planning Report

Section 5 Declaration

File Reference:	Dec 23/17
Question:	Whether the construction of a concrete base and to erect steel cladding to provide a storage shed and to build interior bathrooms and ancillary services Is/ is not development and is /is not exempted development
Applicant:	Van Gillessen Tullamore Canoe club
Location:	Clara Bridge, Rahan Rd, Tullamore R35 FX 98
Date received:	30/6/2023
Date due:	22/7/2023

1. Proposal

The question has arisen as to whether the construction of a concrete base and to erect steel cladding to provide a storage shed and to build interior bathrooms and ancillary services

Is/ is not development and is /is not exempted development

Location

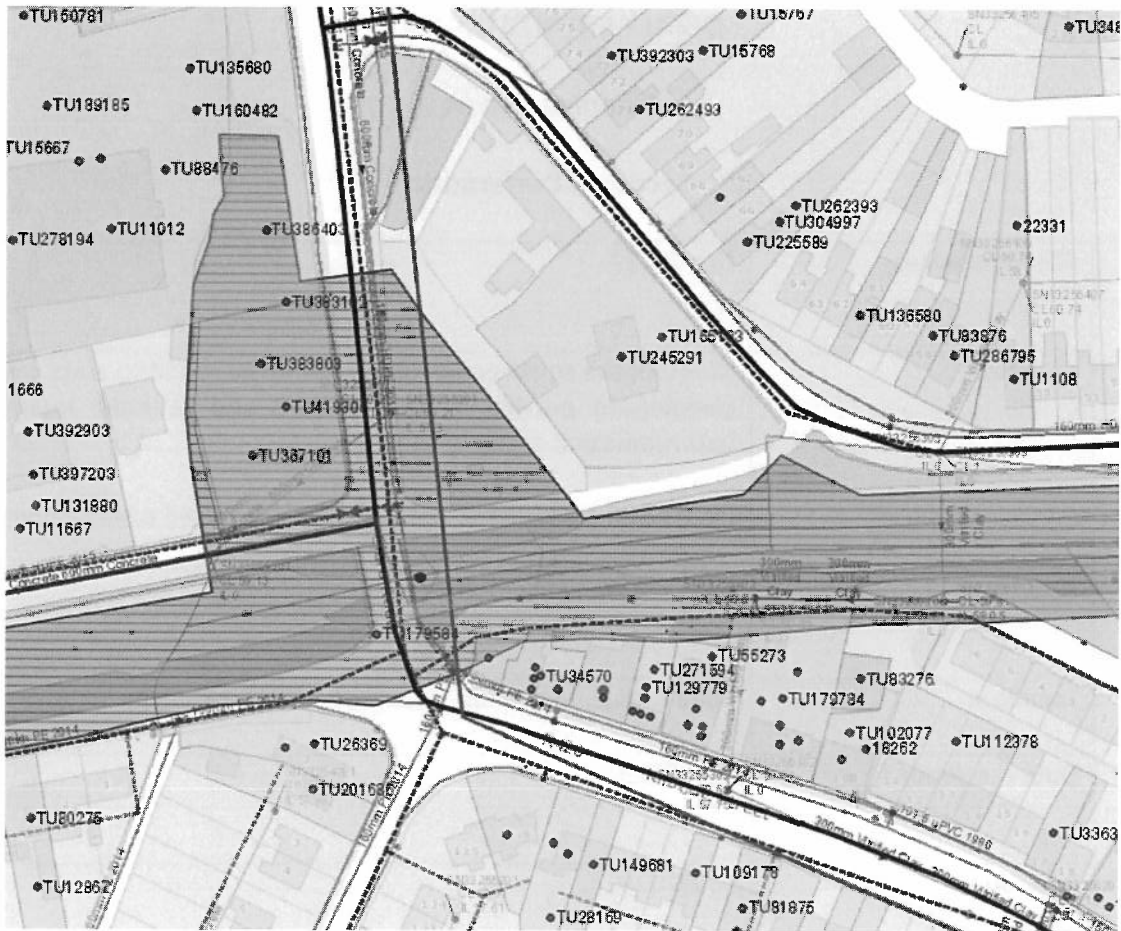
The site is located Clara Bridge, Rahan Rd, Tullamore R35 FX 98

2. Relevant Planning History:

TU245291 Thomas Freer granted Demolish existing house and provide replacement

TU165183 Mrs. Mary Carmel Freer granted 2 Semi- Detached bungalows

The applicants indicated that the canoe Club moved to the site in 2016.



3. Legislative Context:

Section 2 (1) Planning and Development Act 2000, as amended:

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 (1) Planning and Development Act 2000, as amended:

“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 Planning and Development Act 2000, as amended:

4.—(1) The following shall be exempted developments for the purposes of this Act—

(2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).

(b) Regulations under *paragraph (a)* may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

(c) Regulations under this subsection may, in particular and without prejudice to the generality of *paragraph (a)*, provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.

Article 6(1) of the Planning and Development Regulations 2001, as amended:

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
Development for amenity or recreational purposes CLASS 33

<p>Development consisting of the laying out and use of land—</p> <p>(a) as a park, private open space or ornamental garden,</p> <p>(b) as a roadside shrine, or</p> <p>(c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.</p>	<p>The area of any such shrine shall not exceed 2 square metres, the height shall not exceed 2 metres above the centre of the road opposite the structure and it shall not be illuminated.</p>
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Article 9 of the Planning and Development Regulations 2001, as amended:

Development to which article 6 relates shall not be exempted development for the purposes of the Act—

if the carrying out of such development would—

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 20

4. 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.

5. Evaluation

Question: Is the following works considered as Development?

Yes

Question: Is the following works proposal considered as Exempted Development?

No.

I do not consider that class 33, which relates to the laying out and use of land, can be used to exempt the proposed development.

I do not consider that any other exemptions can be applied to the proposal application.

It is noted that part of the site is within a proposed Natural Heritage Area-The Grand Canal, however the proposed works may or may not adversely effect the proposed Natural Heritage Area.

Question: Does the development require environmental impact assessment?

No

6. Conclusion

It is recommended that the applicant be advised that the proposed development 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 concrete base and to erect steel cladding to provide a storage shed and to build interior bathrooms and ancillary services

At Clara Bridge, Rahan Rd, Tullamore LOCATION

AND WHEREAS Van Gillessen 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.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Article 6(1) of the Planning and Development Regulations 2001, as amended
- (d) Article 9 of the Planning and Development Regulations 2001, as amended
- (e) SCHEDULE 2 Part 1, Class 33

AND WHEREAS Offaly County Council has concluded that –

- The work is considered 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 concrete base and to erect steel cladding to provide a storage shed and to build interior bathrooms and ancillary services is **development** and is **not exempted development**.



Ed Kelly EP

19/7/2023

Date

Carroll Melia

Carroll Melia (A/SEP)

20th July 2023

Date

**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 23/17

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:	
Proposed development:	The construction of a concrete base and to erect steel cladding to provide a storage shed and to build interior bathrooms and ancillary services
Site location:	Clara Bridge, Rahan Rd, Tullamore R35 FX 98
Identification of nearby European Site(s):	2000 site(s): SAC 000571– Charleville Wood SAC
Distance to European Site(s):	2km
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: <input checked="" type="checkbox"/>
(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:	
<i>(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).</i>	
If the answer is 'yes' to any of the questions below, then the effect is significant. <i>(Please justify your answer. 'Yes' / 'No' alone is insufficient)</i>	
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	Not likely due to the location and type of development

<p>quality and supply, soil compaction) in the European site?</p>	<p>The site is sufficient distance from the European site.</p>
<p>... serious / ongoing disturbance to species / habitats for which the European site is selected (e.g. because of increased noise, illumination and human activity)?</p>	<p>Not likely due to the location and type of development</p> <p>The site is sufficient distance from the European site.</p>
<p>... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?</p>	<p>None likely due to the location and type of development</p> <p>The site is sufficient distance from the European site</p>
<p>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.</p>	<p>No other plans known of in the vicinity of the site.</p> <p>The site is sufficient distance from the European site.</p>
<p>(E) SCREENING CONCLUSION:</p>	
<p>Screening can result in:</p>	
<p>1.</p>	<p><i>AA is not required</i> because the project is directly connected with / necessary to the nature conservation management of the site.</p>
<p>2.</p>	<p><i>No potential for significant effects / AA is not required.</i></p>
<p>3.</p>	<p><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.</p>
<p>Therefore, does the project fall into category 1, 2 or 3 above?</p>	<p>Category 2</p>
<p>Justify why it falls into relevant category above:</p>	<p>There would be no likely significant impact on European sites from the proposed development.</p>

Name:	Ed Kelly		
Position:	Exec. Planner	Date:	19/7/2023

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.

<https://www.npws.ie/protected-sites/sac/000571>