

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 23/18

NAME OF APPLICANT: Peter and Helen Whyte

ADDRESS FOR CORRESPONDENCE: 1 Sandymount Avenue, Birr, Co. Offaly, R42 DY68

NATURE OF APPLICATION: Request for Declaration Under Section 5 of the Planning & Development Act 2000, as amended as to whether the topping up attic insulation to 30cm, insert bead insulation into cavity, replace windows and doors, install PV panels on rear roof is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: 1 Sandymount Avenue, Birr, Co. Offaly, R42 DY68

WHEREAS a question has arisen as to whether the topping up of attic insulation to 30cm, insertion of bead insulation into cavity, replacement of windows and doors and installation of PV panels on rear roof is or is not development and is or is not exempted development 1 Sandymount Avenue, Birr, Co. Offaly, R42 DY68.

AS INDICATED on the particulars received by the Planning Authority on the 24 July 2023 and 29th July 2024.

AND WHEREAS Peter & Helen Whyte 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, 3(1), 4(1)(h) and 4(2) of the Planning & Development Act 2000, as amended.
- (b) Article 6 of the Planning and Development Regulations 2001 (as amended).
- (c) Class 2, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Offaly County Council has concluded that the works is development and is 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 topping up of attic insulation to 30cm, insertion of bead insulation into cavity, replacement of windows and doors and installation of PV panels on rear roof **is development and is exempted development** at 1 Sandymount Avenue, Birr, Co. Offaly, R42 DY68.

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



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:	<i>Dec. 23/18</i>
Question:	<i>Whether the topping up attic insulation to 30cm, insert bead insulation into cavity, replace windows and doors, install PV panels on rear roof is or is not development and is or is not exempted development</i>
Applicant:	<i>Peter & Helen Whyte</i>
Correspondence Address:	<i>1 Sandymount Avenue, Birr, Co. Offaly. R42 DY68</i>
Location:	<i>As above.</i>

SECOND REPORT ON FILE

1. Introduction

The question has arisen as to whether topping up attic insulation to 30cm; insert bead insulation into cavity; replace windows and doors; and, install PV panels on rear roof is or is not development and is or is not exempted development.

2. Review of Further Information

Further information was sought by the Planning Authority on the 17th August 2023 and subsequently received by the Planning Authority on the 29th July 2024. This report should be read in conjunction with the previous planner's report dated 16th August 2023. The following further information was sought and the response is as follows:

- (a) *The Applicant shall clarify whether the proposed PV solar panels shall comply with the conditions and limitations as listed in Article 6, Part 1 - Class 2(c) of the Planning and Development Regulations 2001 (as amended) – please find enclosed.*

In response, the Applicant advises that the solar panels were installed in March 2024 and they are full compliant with the requirements for exemptions which were detailed in the FI request. They note that the panels are mounted on a pitched roof and no panel is more than 15cm from the plane of the roof or less than 50cm from the edge of the roof.

The Planner visited the subject site in August 2024; access to the property was not available.

3. Screening

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

It is considered that the proposed development does not constitute a development listed in Schedule 5 of the Planning and Development Regulations 2001 as amended. Furthermore, it is not a sub-threshold development. Accordingly, an EIAR is not required.

4. Evaluation

I consider that the proposed development complies with Section 4 (1)(h) of the Planning and Development Act 2000 (as amended) and Class 12 of Schedule 2 – Exempted Development, Part I of the Planning and Development Regulations 2001 (as amended) and is thereby considered to constitute exempted development.

5. Conclusion

Having regard to:

- Section 2, 3(1), 4(1)(h) and 4(2) of the Planning & Development Act 2000, as amended.
- Article 6 of the Planning and Development Regulations 2001 (as amended).
- Class 2, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

It is considered that proposed works are development and are 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 topping up of attic insulation to 30cm, insertion of bead insulation into cavity, replacement of windows and doors and installation of PV panels on rear roof is or is not development and is or is not exempted development 1 Sandymount Avenue, Birr, Co. Offaly, R42 DY68.

AS INDICATED on the particulars received by the Planning Authority on the 24 July 2023 and 29th July 2024,

AND WHEREAS Peter & Helen Whyte 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, 3(1), 4(1)(h) and 4(2) of the Planning & Development Act 2000, as amended.
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- (c) Class 2, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Offaly County Council has concluded that the works is development and is 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 topping up of attic insulation to 30cm, insertion of bead insulation into cavity, replacement of windows and doors and installation of PV panels on rear roof is **development and is exempted development** at 1 Sandymount Avenue, Birr, Co. Offaly, R42 DY68.

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.



Una McCafferkey
Executive Planner

15th August 2024
Date

Handwritten signature of Ed Kelly in blue ink.

Ed Kelly
(A/Senior Executive Planner)

15th August 2024
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. 23-18

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the topping up attic insulation to 30cm, insert bead insulation into cavity, replace windows and doors, install PV panels on rear roof is or is not development and is or is not exempted development		
Site location:	1 Sandymount Avenue, Birr, Co. Offaly. R42 DY68		
Site size:	0.0316h	Floor Area of Proposed Development	N/A
Identification of nearby European Site(s):	All Saints Bog SPA – 6.95km All Saints Bog and Esker SAC – 6.95km River Little Brosna Callows SPA – 5.68km Dovegrove Callows SPA – 2.36km Ridge Road, SW of Rapemills SAC: 5.5km		
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: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>	
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):	<p>All Saints Bog SPA - Features of interest include:</p> <ul style="list-style-type: none"> • Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] <p>All Saints Bog and Esker SAC – Features of interest include:</p> <ul style="list-style-type: none"> • Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210] • Active raised bogs [7110] • Degraded raised bogs still capable of natural regeneration [7120] • Depressions on peat substrates of the <i>Rhynchosporion</i> [7150] • Bog woodland [91D0] <p>River Little Brosna Callows SPA– Features of interest include:</p> <ul style="list-style-type: none"> • Whooper Swan (<i>Cygnus cygnus</i>) [A038] • Wigeon (<i>Anas penelope</i>) [A050] • Teal (<i>Anas crecca</i>) [A052] • Pintail (<i>Anas acuta</i>) [A054] • Shoveler (<i>Anas clypeata</i>) [A056] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Lapwing (<i>Vanellus vanellus</i>) [A142] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] • Wetland and Waterbirds [A999] 		

Dovegrove Callows SPA- Features of Interest include:

- Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]

The conservation objectives / qualifying interests of the site and the factors that contribute 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: ALL SAINTS BOG SPA

SITE CODE: 004103

All Saints Bog is a lowland raised bog located about 5 km north-west of Birr in Co. Offaly. It is separated from the River Little Brosna callows by a fragmented esker ridge. The site is unique in that it contains the largest stand of birch (*Betula* sp.) woodland in the country growing on an active raised bog.

At the time this site was designated as a Special Protection Area (SPA) it was known to be utilised by part of an internationally important population of Greenland White-fronted Goose. Greenland White-fronted Goose is regarded as a special conservation interest for this SPA.

All Saints Bog was formerly used by part of the internationally important Greenland White-fronted Goose population based on the River Little Brosna. In recent years, however, there has been little or no use of All Saints by the geese following a general trend of less usage of raised bogs in favour of grassland sites. The last record of Greenland White-fronted Goose within the site was 75 individuals in 1993/94.

Merlin has been seen on the bog during the breeding season and may breed there. The peat dome and marginal areas provide good foraging habitat for this bird of prey species.

Site Name: All Saints Bog and Esker SAC

Site Code: 000566

All Saints Bog is a lowland raised bog lying about 5 km north-west of Birr in Co. Offaly, and separated from the Little Brosna Callows by a fragmented esker ridge.

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):

[6210] Orchid-rich Calcareous Grassland*

[7110] Raised Bog (Active)*

[7120] Degraded Raised Bog

[7150] Rhynchosporion Vegetation

[91D0] Bog Woodland*

Active raised bog comprises areas of high bog that are wet and actively peat-forming, where the percentage cover of bog mosses (*Sphagnum* spp.) is high, and where some or all of the following features occur: hummocks, pools, wet flats, *Sphagnum* lawns, flushes and soaks. Degraded raised bog corresponds to those areas of high bog whose hydrology has been adversely affected by peat cutting, drainage and other land use activities, but which are capable of regeneration. The Rhynchosporion habitat occurs in wet depressions, pool edges and erosion channels where the vegetation includes White Beak-sedge (*Rhynchospora alba*) and/or Brown Beak-sedge (*R. fusca*), and at least some of the following associated species: Bog Asphodel (*Narthecium ossifragum*), sundews (*Drosera* spp.), Deergass (*Scirpus cespitosus*) and Carnation Sedge (*Carex panicea*).

The active raised bog is dominated by bog mosses, e.g. *S. cuspidatum* in pools, *S. magellanicum* forming carpets and *S. imbricatum* forming hummocks. Heather (*Calluna vulgaris*) occurs on the hummocks. Characteristic species of midland raised bogs, such as Cranberry (*Vaccinium oxycoccos*) and Bog-rosemary (*Andromeda polifolia*), also occur. In the wettest areas, Rhynchosporion vegetation is relatively well-developed and widespread. Frequent species include Bogbean (*Menyanthes trifoliata*), Great Sundew (*Drosera anglica*), Bog Asphodel, White Beak-sedge and Common Cottongrass (*Eriophorum angustifolium*). The relatively rare Brown Beak-sedge has been noted from wet pools within the site. The presence of the liverwort *Pleurozia purpurea*, a western species, is notable.

Degraded raised bog dominates the drier areas of high bog surface within this site. The most frequent vascular plant species in the vegetation are Heather, Hare's-tail Cottongrass (*Eriophorum vaginatum*), Deergass, Bog Asphodel and Carnation Sedge. The *Sphagnum* cover in degraded raised bog areas is generally low, typically lying within the range of 5 to 20% ground cover. The presence, and local abundance, of moss species indicative of disturbance or drying-out, such as *Campylopus paradoxus*, *C. introflexus* and *Leucobryum glaucum*, is noteworthy. Locally, the cover of the lichen *Cladonia portentosa* can be high. However, the lichen cover is generally low due to frequent burning episodes which have affected the site in the recent past.

The site contains the largest stand of birch (*Betula* spp.) woodland growing on an active raised bog in the country. In the centre of the bog there is a elongated flushed area which is wooded, and this is surrounded by an outer non-wooded area. The non-wooded area is dominated by *Sphagnum recurvum* and *S. fimbriatum*, with hummocks of *S. palustre* and *S. capillifolium*. Hare's-tail Cottongrass is common and Heather, Crowberry (*Empetrum nigrum*) and Cranberry are abundant. The wooded area, which covers approximately 20 ha, is dominated by birch (mostly Downy Birch, *Betula pubescens*, but with a little Silver Birch, *B. pendula*), which grows to about 5-8 m high. There are scattered pines (*Pinus* spp.) and a shrub layer of willows (*Salix aurita* and *S. atrocinerea*), a dwarf shrub layer of Heather and Crowberry, and a thick mat of mosses and lichens with species such as *Sphagnum fimbriatum*, *S. palustre*, *Aulacomnium palustre*, *Polytrichum commune*, *Peltigera* cf. *canina* and *Cladonia portentosa*. In drier and more open areas, Bracken (*Pteridium aquilinum*) is locally dominant with grasses, e.g. Sweet Vernal-grass (*Anthoxanthum odoratum*), and the Field Wood-rush (*Luzula campestris*). Bottle Sedge (*Carex rostrata*) occurs in wetter areas. The rare Myxomycete fungus, *Badhamia lilacina*, has been recorded from the site.

The birch wood supports an interesting invertebrate fauna, with two rare species being recorded; a fly (*Dictenida bimaculata*, Order Diptera) and a ladybird (*Hippodamia tredecimpunctata*, Order Coleoptera). There is a concentration of saproxylic invertebrates in the birch woodland, which suggests that the woodland is ancient. The bog has traditionally been used as an occasional refuge for part of the Little Brosna flock of Greenland White-fronted Goose, an Annex I species of the E.U. Birds Directive, although in recent years they have not been observed on the bog.

An extensive area in the north-east corner of the bog, representing about 20% of the bog surface, is being cut for turf, with drains running into the eastern edge of the birch woodland. This appears to be leading to the bog drying out, as the surface is reported to be much drier than when first surveyed in the mid-1980s.

To the south of the bog are the fragmented remains of an esker ridge, which may have an influence on the hydrology of the flush. It is included in the site partly for this reason, but also for its own intrinsic value. The area south-east of Coneycarn pit is steeply sloping and unfertilised, and supports a good example (though small in area) of species-rich calcareous esker grassland. Pyramidal Orchid (*Anacamptis pyramidalis*) and Common Spotted-orchid (*Dactylorhiza fuchsii*) have both been recorded. In addition, a large population of Green-winged Orchid (*Orchis morio*), a species listed in the Irish Red Data Book of vascular plants, occurs here. Coneycarn pit itself supports populations of the legally protected (Flora (Protection) Order, 1999) Red Hemp-nettle (*Galeopsis angustifolia*) and the threatened Blue Fleabane (*Erigeron acer*). Both of these are annual species of ruderal habitats and are listed in the Irish Red Data Book of vascular plants.

All Saints' Bog is a unique bog, important for its vegetation types, plants, invertebrates and birds. To conserve the site peat cutting needs to stop, drains need to be blocked and marginal dams built to raise the water table. The esker supports species-rich grassland, including rare species, and this area should continue to be grazed but left unfertilized. Further gravel extraction should be prevented, although some disturbance may be required to conserve the Red Hemp-nettle and Blue Fleabane.

SITE NAME: RIVER LITTLE BROSNA CALLOWS SPA, SITE CODE: 004086

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004086.pdf>

SITE NAME: DOVEGROVE CALLOWS SPA, SITE CODE: 004137

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004137.pdf>

(C) NPWS ADVICE:

Advice received from NPWS over phone:	None Received
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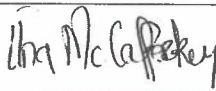
Summary of advice received from NPWS in written form (ATTACH SAME):	None Received
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(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:

(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.

<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. The site is sufficient distance from the European site.</p>	
<p>(E) SCREENING CONCLUSION:</p>			
<p>Screening can result in:</p>			
1.	<p><i>AA is not required</i> because the project is directly connected with / necessary to the nature conservation management of the site.</p>		
2.	<p><i>No potential for significant effects / AA is not required.</i></p>		
3.	<p><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.</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 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.</p>	
<p>Name:</p>		<p>Úna McCafferkey </p>	
<p>Position:</p>		<p>Executive Planner</p>	<p>Date: 15th August 2024</p>