

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

REFERENCE: DEC 23/20

NAME OF APPLICANT: Highfield United Football Club

ADDRESS: Burke's Hill, Birr, Co. Offaly

ADDRESS FOR CORRESPONDENCE: C/O Michelle Cotter, 32 McAuley Drive, Birr Co. Offaly,
R42 WC58

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as whether or not the provision of a water and wastewater connection by the statutory undertaker, Uisce Éireann, for the sports ground is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Highfield United Football Club, Burke's Hill, Birr, Co. Offaly

WHEREAS A question referred to Offaly County Council 01/08/2023 as to whether or not the provision of a water and wastewater connection by the statutory undertaker, Uisce Éireann, for the sports ground at Highfield United Football Club, Burke's Hill, Birr, 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, 3(1) and 4(1) of the Planning & Development Act 2000, as amended.
- (b) Article 6(1) of the Planning and Development Regulations 2001, as amended.
- (c) Schedule 2, Part 1, Class 58 of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that –

- that the provision of a water and wastewater connection by the statutory undertaker, Uisce Éireann, for the sports ground at Highfield United Football Club, Burke's Hill, Birr, Co. Offaly 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 provision of a water and wastewater connection by the statutory undertaker, Uisce Éireann, for the sports ground at Highfield United Football Club, Burke's Hill, Birr, 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.


Administrative Officer

29/9/23
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:	<i>Dec. 23/20</i>
Question:	<i>Whether the 25mm water and 100mm wastewater connection for the sports ground is or is not development and is or is not exempted development.</i>
Applicant:	<i>Highfield United Football Club</i>
Correspondence Address:	<i>c/o Michelle Cotter, 32 McAuley Drive, Birr, Co. Offaly. R42 WC58.</i>
Location:	<i>Highfield United Football Club, Burke's Hill, Birr, Co. Offaly.</i>

2nd Planning Report

Please refer to previous report dated 1st September 2023.

1. Proposal

The question has arisen as whether the 25mm water and 100mm wastewater connection for the sports ground at Highfield United Football Club is or is not development and is or is not exempted development.

2. Location

The subject site, the Highfield United Football Club, is located within Birr Town on lands which are zoned as Strategic Residential Reserve under the Birr Local Area Plan 2023 – 2029.

3. Review of Further Information

Further information (FI) was sought by the Planning Authority on the 1st September 2023. A response was subsequently received on the 12th September 2023.

This report should be read in conjunction with the previous planner's report dated 1st September 2023. The following FI was sought and the response is as follows:

- (a) Details of the existing building which is adjacent to the northern boundary of the subject site and shown on the submitted site layout as 'existing building for new connection'. Details shall include:
 - (h) the purpose of this building.*
 - (i) total square meterage.*
 - (ii) when it was erected.**

The Applicants advise that the building was erected in order to provide housing for a switchboard for connection to the electricity distribution system as required by ESB Networks to comply with health and safety regulations. The building now houses the club's automated external defibrillator (AED) and associated heated storage cabinet and storage. It comprises of 7.29m² and was erected in 2013.

(b) Clarify whether the Applicant seek the determination of the Planning Authority on whether this existing building is or is not development and is or is not exempted development.

The Applicant confirms that they do not seek determination from the Planning Authority on whether this existing building is or is not development or is or is not exempted development. They advise that exemption status for construction of this building on the ground of its size was verbally obtained from the Birr Town Council Town Clerk at the time, prior to construction. They have provided a copy of a wayleave letter from the Town Clerk dated 24th June 2013 allowing for the ESB connection on the property.

The Applicant advises that they are solely seeking determination on whether the 25mm water and 100mm wastewater connection for the sports ground is or is not development and is or is not exempted development. Notwithstanding this, the Planning Authority note that the exemptions which are applicable under Class 29 as contained in *Schedule 2, Part 1 – Exempted Development – General* of the Planning and Development Regulations 2001 (as amended) may or may not apply to this existing building on site.

The Applicant notes they require the connection to the public water supply as they are a football club with no onsite means to provide drinking water to players. It is proposed to make a connection to the public water supply on site and affix an outdoor tap to the exterior of the existing building.

They also propose to make a connection to the wastewater collection infrastructure, as ‘it seems sensible to make all necessary connections to the public water infrastructure simultaneously’. They advise that a connection to the wastewater infrastructure will be required when the Club is in a position to install toilets and showers at a future date.

4. Evaluation

Having regard to Section 3 (1) Planning and Development Act 2000 (as amended), the proposed connections can be defined as development as it involves works on the land/subject site.

Given that these works would be carried out by Uisce Éireann, a statutory undertaker, the proposed connection works to the public mains infrastructure are deemed exempted development. In this regard, the Planning Authority refers to Class 58 as contained in *Schedule 2, Part 1 – Exempted Development – General* of the Planning and Development Regulations 2001 (as amended):

CLASS 58

Development by Irish Water, for the purpose of the provision of water services, consisting of one or more of the following:

- (a) the inspection, maintenance, repair, renewal or removal of pipes, cables, water mains, sewers, including associated accessories, service connections, boundary boxes, kiosks, intakes, overhead wires, meters and other apparatus, including the excavation of any street or other land for that purpose.*

5. Appropriate Assessment

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.

6. Recommendation

It is recommended that the Applicant be advised that the proposed development is development and is 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 or not the provision of a water and wastewater connection by the statutory undertaker, Uisce Éireann, for the sports ground at Highfield United Football Club, Burke's Hill, Birr, Co. Offaly is or is not development and is or is not exempted development.

AS INDICATED on the particulars received by the Planning Authority on the 8th August 2023 and 12th September 2023 and 9th March 2023, is development and is or is exempted development,

AND WHEREAS Highfield Units FC c/o Michaelle Cotter 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) and 4(1) of the Planning & Development Act 2000, as amended.
- (b) Article 6(1) of the Planning and Development Regulations 2001, as amended.
- (c) Schedule 2, Part 1, Class 58 of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that the provision of a water and wastewater connection by the statutory undertaker, Uisce Éireann, for the sports ground at Highfield United Football Club, Burke's Hill, Birr, Co. Offaly 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 provision of a water and wastewater connection by the statutory undertaker, Uisce Éireann, for the sports ground at Highfield United Football Club, Burke's Hill, Birr, Co. Offaly is development and is exempted development.

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

28th September 2023

Date

Ed Kelly

Ed Kelly (A/Senior Executive Planner)

Date 28/9/2023

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 23/20

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the 25mm water and 100mm wastewater connection for the sports ground is or is not development and is or is not exempted development.		
Site location:	Highfield United Football Club		
Site size:	Not provided	Floor Area of Proposed Development:	Not provided
Identification of nearby European Site(s):	Ridge Road, SW of Rapemills SAC – 4.67km Dovegrove Callows SPA – 2km River Little Brosna Callows SPA – 5.2km		
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):			
Ridge Road, SW of Rapemills SAC – Features of interest include:	<ul style="list-style-type: none"> • Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] 		
Dovegrove Callows SPA - Features of interest include:	<ul style="list-style-type: none"> • Greenland White-fronted Goose (Anser albifrons flavirostris) [A395] 		
River Little Brosna Callows SPA- Features of interest include:	<ul style="list-style-type: none"> • Whooper Swan (Cygnus cygnus) [A038] • Wigeon (Anas penelope) [A050] • Teal (Anas crecca) [A052] • Pintail (Anas acuta) [A054] • Shoveler (Anas clypeata) [A056] • Golden Plover (Pluvialis apricaria) [A140] • Lapwing (Vanellus vanellus) [A142] • Black-tailed Godwit (Limosa limosa) [A156] • Black-headed Gull (Chroicocephalus ridibundus) [A179] • Greenland White-fronted Goose (Anser albifrons flavirostris) [A395] • Wetland and Waterbirds [A999] 		
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: Dovegrove Callows SPA, Site Code: 004137
<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004137.pdf>
 Site Name: Ridge Road, SW of Rapemills SAC, Site Code: 000919
<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000919.pdf>
 Site Name: River Little Brosna SPA, Site Code: 004086
<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004086.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.	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 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 <i>Úna McCafferkey</i>	
Position:	Executive Planner	Date: 28 th September 2023