

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 23/25

NAME OF APPLICANT: RHOTHIREES LTD

ADDRESS: C/O HIGHFIELD ENERGY SERVICES LTD., DESIGN
STUDIO 7, OLD CASTLE VIEW, KILGOBBIN ROAD,
DUBLIN 18, D18 A243

NATURE OF APPLICATION: REQUEST FOR DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED AS TO WHETHER OR NOT THE PROPOSED
UNDERGROUND HV DUCTING AND CABLING TO CONNECT CLONIN NORTH SOLAR FARM
(OFFALY PLANNING REF: 16/246) TO EXISTING ESB DERRYIRON 110KV SUBSTATION AT
CLONIN, RHODE, CO. OFFALY IS OR IS NOT DEVELOPMENT, AND IS OR IS NOT EXEMPTED
DEVELOPMENT.

LOCATION OF DEVELOPMENT: CLONIN, RHODE, CO. OFFALY.

WHEREAS A question referred to Offaly County Council on 15/09/2023 as to whether or not the proposed
underground HV ducting and cabling to connect Clonin North Solar Farm (Offaly Planning Ref: 16/246) to
existing ESB Derryiron 110KV substation at Clonin, Rhode, 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 Offaly County Council, in considering this declaration request, had regard particularly to-

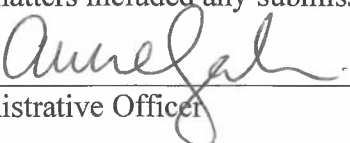
- (a) Section 2 of the Planning & Development Act 2000, as amended.
- (b) Section 3 of the Planning & Development Act 2000, as amended.
- (c) Article 6 of the Planning & Development Regulations 2001, as amended and
- (d) Schedule 2, Part 1, Class 26 of the Planning & Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that –

- The works are **development** and are **exempted development**.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) of the
Planning and Development Act 2000, as amended, hereby decides the proposed underground HV ducting and
cabling to connect Clonin North Solar Farm (Offaly Planning Ref: 16/246) to existing ESB Derryiron 110KV
substation at Clonin, Rhode, 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

12/10/23
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:	Dec 23/25
Question:	Whether or not proposed the proposed underground HV ducting and cabling to connect Clonin North Solar Farm (Offaly Planning Ref: 16/246) to existing ESB Derryiron 110KV substation is or is not development and is or is not exempted development .
Applicant:	Rhothirees Ltd
Location:	Clonin, Rhode, Co. Offaly.
Date received:	15 th September 2023
Date due:	12 th October 2023

1. Proposal

The question has arisen as to whether or not a proposed underground HV ducting and cabling (105m in length) to connect Clonin North Solar Farm (Offaly Planning Ref: 16/246) to existing ESB Derryiron 110KV substation is or is not development and is or is not exempted development.

2. Background

The underground HV ducting and cabling is associated with the proposed Clonin North Solar Farm at Clonin, Rhode, Co. Offaly which secured planning permission from Offaly County Council in March 2017 (Planning Reference PL2/16/246).

The route of the proposed underground cable will connect the permitted on site substation to the existing adjacent ESB Derryiron 110kv substation.

3. INTERNAL REFERRALS:

None

4. Relevant Planning History:

16/246: Permission **Granted** to Highfield Solar Limited for a period of 10 years to complete the development of a solar pv energy development with a total site area of circa 96.6 hectares, to include one single storey electrical substation building and associated compound, electrical transformer and inverter station modules, storage modules, solar pv panels ground mounted on support structures, access roads, fencing and associated electrical cabling, ducting, cctv and other ancillary

infrastructure, additional landscaping as required and associated site development works subject to 20 conditions.

5. Legislative Context

Planning and 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;

“statutory undertaker” means a person, for the time being, authorised by or under any enactment or instrument under an enactment to—

- (a) construct or operate a railway, canal, inland navigation, dock, harbour or airport,
- (b) provide, or carry out works for the provision of, gas, electricity or telecommunications services, or
- (c) provide services connected with, or carry out works for the purposes of the carrying on of the activities of, any public undertaking;

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.

Planning and Development Regulations 2001 (as amended)

Article. 6. (1) 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, CLASS 26 The carrying out by any undertaker authorised to provide an electricity service of development consisting of the laying underground of mains, pipes, cables or other apparatus for the purposes of the undertaking

Elgin Energy falls within the category of statutory undertaker on foot of its authorisation under the Planning Act to construct a solar farm (Planning Permission PL2 17/11) that is a project for the provision of electricity. On this basis the proposed development falls within the scope of Schedule 2, Part 1, CLASS 26 of the planning regulations.

6. Proposal by Applicant

The applicant wishes to ascertain whether or not proposed the proposed underground HV ducting and cabling (105m in length) to connect Clonin North Solar Farm (Offaly Planning Ref: 16/246) to existing ESB Derryiron 110KV substation is or is not development and is or is not exempted development .

7. 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.

8. Evaluation

Question: Is the following works considered as Development?

It is considered that the proposal constitutes 'development' as defined by Section 3(1) of the Act.

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

Rhothrees Limited falls within the category of statutory undertaker on foot of its authorisation under the Planning Act to construct a solar farm (Planning Permission 16/246) that is a project for the provision of electricity. On this basis the proposed development falls within the scope of Schedule 2, Part 1, CLASS 26 of the planning regulations.

9. Conclusion

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 the:

The development by Rhothirees Ltd of a proposed underground HV ducting and cabling to connect Clonin North Solar Farm (Offaly Planning Ref: 16/246) to existing ESB Derryiron 110KV substation is or is not development and is or is not exempted development at Clonin, Rhode, Co.

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) Article 6 of the Planning and Development Regulations 2001 as amended and
- (d) Schedule 2, Part 1, Class 26 of the Planning and Development Regulations 2001 as amended.

AND WHEREAS Offaly County Council has concluded that –

The proposed works are development and are exempted development.

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

The development by Rhothirees LTD of a proposed underground HV ducting and cabling to connect Clonin North Solar Farm (Offaly Planning Ref: 16/246) to existing ESB Derryiron 110KV substation at Clonin, Rhode, Co. Offaly is considered development and is exempted development.

Michael Duffy

Michael Duffy

Assistant Planner

10th October 2023



Ed Kelly

Acting Senior Executive Planner

11/10/2023

**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: Offaly County Council

Planning Application Ref. No.: DEC/23/25

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether or not proposed the proposed underground HV ducting and cabling to connect Clonin North Solar Farm (Offaly Planning Ref: 16/246) to existing ESB Derryron 110KV substation is or is not development and is or is not exempted development .		
Site location:	CLONIN, RHODE, CO. OFFALY		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby <i>European</i> Site(s):	Raheenmore Bog SAC		
Distance to <i>European</i> Site(s):	7.87km		
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 <i>European</i> site:	As the proposed development will not lead to a physical encroachment on the cut away bogland, woodland or will affect the water table below the European designated site from excessive water abstraction and the subject site not border the European designated site or linked through a surface water body, it is not considered likely to be interactive/cumulative impacts other existing, proposed or approved plans in the area.		
Is the application	Yes: <input type="checkbox"/>	No: X	

accompanied by an EIAR?		
(B) IDENTIFICATION OF THE RELEVANT <i>European</i> SITE(S):		
The reasons for the designation of the <i>European</i> site(s):		
<p>Please see the following extract from Raheenmore Bog SAC National Parks and Wildlife Conservation Plan for 2005-2010.</p> <p>Raheenmore Bog is situated 12km north-east of Tullamore, Co. Offaly and comprises 182ha. It developed in a small basin in the catchment of the Brosna and Boyne rivers, and is the deepest remaining raised bog in Ireland. The majority of the site (89%) comprises a statutory Nature Reserve. The underlying rock is Carboniferous limestone, with overlying gravely glacial till and lacustrine deposits above this. Deep peripheral drains surround the bog. Surface drains are also present, mostly on the eastern side of the bog. By far the most important habitat present is the active raised bog, an Annex I priority habitat listed in the E.U. Habitats Directive. The habitat has a well-developed hummock and hollow system. The hummocks are often colonised by the bog mosses <i>Sphagnum imbricatum</i> and <i>S. fuscum</i>. Pool areas support Great Sundew, the moss <i>Sphagnum cuspidatum</i> and the liverwort <i>Cladopodiella fluitans</i>. In places, moss lawns of <i>S. magellanicum</i> have infilled the pools. Overall, the cover of bog mosses on the bog is very good. Away from the dome summit, Bog Asphodel flats dominate the peat surface. Other species include Ling Heather, Deergrass, lichens, Bog Cottons and White Beak-sedge.</p> <p>Other habitats present on the site include cutover bog, strips of Birch woodland at the margins, lowland wet grassland (fertilised to varying degrees) and freshwater marsh. Small relict areas of poor fen or lagg vegetation have been identified at Raheenmore. It may therefore be possible to restore some lagg areas, which would add to the quality of the site. Noteworthy plant species present include Tussock Sedge and the moss <i>Sphagnum pulchrum</i>. Merlin frequents the site and the Irish Red Grouse recently bred on the bog.</p>		
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 <i>European</i> site synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) (ATTACH INFO.)		
<p>The nature conservation objectives for this site are:</p> <p>Objective 1: To maintain and, where possible, enhance the quality of the active raised bog (64% of the site).</p>		

Objective 2: To restore areas of lagg vegetation around the raised bog i.e. in the westnorth- west and south of the site.

Objective 3: To maintain and, where possible, enhance the ecological quality of other habitats, in particular dry, broadleaved semi-natural woodland (3% of site), cutover bog (10%), lowland wet grassland (23%), and freshwater marsh (<1%).

Objective 4: To maintain, and possibly increase, the populations of Annex I and other important species of flora and fauna present e.g. Merlin, Grouse and *Sphagnum pulchrum*.

Objective 5: To maintain effective liaison between NPW, landowners and other interested parties, in order to effectively manage the site for conservation.

(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).

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 <i>European site</i> ?	Not likely due to the location and type of development. 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 <i>European site</i> ?	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 <i>European site</i> 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

<p>... direct / indirect damage to the size, characteristics or reproductive ability of populations on the <i>European</i> site?</p>	<p>Not likely due to the location and type of development. 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 <i>European</i> 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>	
<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 Natura Impact Statement from the applicant, or reject the project. Reject if too potentially damaging / inappropriate.</p>
<p><i>Conclusion: 2 No potential for significant effects / AA is not required.</i></p>	
<p>As the proposed development will not lead to a physical encroachment on the cut away bogland, woodland of the Raheenmore Bog SAC or will affect the water table below the European designated site from excessive water abstraction and the subject site not border European designated site or linked through a surface water body, it is not considered likely to be have significant effects on the European Designated site.</p>	
<p>Name:</p>	<p>Michael Duffy</p>
<p>Position:</p>	<p>Executive Planner</p>
<p>Date:</p>	<p>10th October 2023</p>