

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 23/53

NAME OF APPLICANT: Gordon Clarke

ADDRESS FOR CORRESPONDENCE: 7 Ely Place, Crinkle, Birr, Co. Offaly, R42 E820

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the proposed works including removing existing leaning boundary wall and foundations, installing new foundations, block wall and outdoor condensing boiler, reflash chimney, raise low boundary wall and cap, painting, and internal work, is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: 7 Ely Place, Crinkle, Birr, Co. Offaly, R42 E820

WHEREAS a question has arisen as to whether the proposed works including removing existing leaning boundary wall and foundations, installing new foundations, block wall and outdoor condensing boiler, reflash chimney, raise low boundary wall and cap, painting and internal works is or is not development and is or is not exempted development at 7 Ely Place, Crinkle, Birr, Co. Offaly, R42 E820.

AS INDICATED on the particulars received by the Planning Authority on the 8<sup>th</sup> November 2023 and 11<sup>th</sup> December 2023.

AND WHEREAS Gordon Clarke 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) 4(2)(a)(i) of the Planning & Development Act 2000, as amended.
- (b) Article 6 and Class 2, 5, 6, 10, 12, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Offaly County Council has concluded that the proposed works as detailed in the submitted documentation 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 proposed works including removing existing leaning boundary wall and foundations, installing new foundations, block wall and outdoor condensing boiler, reflash chimney, raise low boundary wall and cap, painting and internal works is **development** and is **exempted development** at 7 Ely Place, Crinkle, Birr, Offaly, R42 E820.

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.

  
Senior Executive 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.



# OFFALY COUNTY COUNCIL

## Planning Report

### Section 5 Declaration

<b>File Reference:</b>	<b>Dec. 23/53</b>
<b>Question:</b>	<i>Whether the proposed works including removing existing leaning boundary wall and foundations, installing new foundations, block wall and outdoor condensing boiler, reflash chimney, raise low boundary wall and cap, painting and internal works is or is not development and if so, are they exempted development.</i>
<b>Applicant:</b>	<i>Gordon Clarke</i>
<b>Correspondence Address:</b>	<i>7 Ely Place, Crinkle, Birr, Offaly, R42 E820.</i>
<b>Location:</b>	<i>7 Ely Place, Crinkle, Birr, Offaly, R42 E820.</i>

### SECOND REPORT ON FILE

#### 1. Proposal

The question has arisen whether the proposed works including removing existing leaning boundary wall and foundations, installing new foundations, block wall and outdoor condensing boiler, reflash chimney, raise low boundary wall and cap, painting and internal works is or is not development and if so, are they exempted development.

#### Review of Further Information

Further information was sought by the Planning Authority on 5<sup>th</sup> December 2023 and subsequently received by the Planning Authority on 11<sup>th</sup> December 2023. This report should be read in conjunction with the previous planner's report dated 21<sup>st</sup> November 2023. The following Further Information was sought and the response is as follows:

- The applicant has queried the planning status of the installation of a new block wall and proposals to raise a low boundary wall. The applicant is required to provide further information on the height of the proposed block wall and the height the low boundary wall proposed is being raised to.  
Please submit a site layout map indicating the location of the aforementioned walls and indicating the proposed heights and materials of the proposed boundary treatments.*

**Applicants Response:** The applicant has provided measurements and locations of the proposed new block wall and low boundary wall. The new block wall to replace leaning boundary wall has a proposed height of 0.92m and the low boundary wall is to be raised to 1.2m.

**Planners Appraisal:** The further information received in relation to item 1 was assessed by the Planning Authority, who subsequently are satisfied with the response. The proposed installation of a new block wall and raising of the low boundary wall complies with Class 5 of Schedule 2 – Exempted Development, Part I of the Planning and Development Regulations 2001 (as amended):

## 2. 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.

## 3. Evaluation

I consider that the proposed development complies with Section 4 (1)(h) of the Planning and Development Act 2000 (as amended) and Class 5 of Schedule 2 – Exempted Development, Part I of the Planning and Development Regulations 2001 (as amended): and is thereby considered to constitute exempted development.

## 4. Conclusion

Having regard to:

- Section 2, 3(1), 4(1)(h) 4(2)(a)(i) of the Planning & Development Act 2000, as amended.
- Article 6 and Class 2, 5, 6, 10, 12, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

It is considered that the proposed works including removing existing leaning boundary wall and foundations, installing new foundations, block wall and outdoor condensing boiler, reflash chimney, raise low boundary wall and cap, painting and internal works at 7 Ely Place, Crinkle, Birr, Offaly, R42 E820 is **development** as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and is **exempted development** as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

**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 proposed works including removing existing leaning boundary wall and foundations, installing new foundations, block wall and outdoor condensing boiler, reflash chimney, raise low boundary wall and cap, painting and internal works is or is not development and if so, are they exempted development.

**AS INDICATED** on the particulars received by the Planning Authority on the 8<sup>th</sup> November 2023 and 11<sup>th</sup> December 2023.

**AND WHEREAS** Gordon Clarke 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:

- Section 2, 3(1), 4(1)(h) 4(2)(a)(i) of the Planning & Development Act 2000, as amended.
- Article 6 and Class 2, 5, 6, 10, 12, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

**AND WHEREAS** Offaly County Council has concluded that the proposed works as detailed in the submitted documentation 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 proposed works including removing existing leaning boundary wall and foundations, installing new foundations, block wall and outdoor condensing boiler, reflash chimney, raise low boundary wall and cap, painting and internal works **is development and is exempted development** at 7 Ely Place, Crinkle, Birr, Offaly, R42 E820.

*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.*



Enda Dolan  
Graduate Planner

21<sup>st</sup> December 2023



Úna McCafferkey  
A/Senior Executive Planner

5<sup>th</sup> January 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 23/53**

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the proposed works including removing existing leaning boundary wall and foundations, installing new foundations, block wall and outdoor condensing boiler, reflash chimney, raise low boundary wall and cap, painting and internal works is or is not development and if so, are they exempted development.		
Site location:	7 Ely Place, Crinkle, Birr, Offaly, R42 E820.		
Site size:	Not given	Floor Area of Proposed Development:	18m <sup>2</sup>
Identification of nearby European Site(s):	Dovegrove Callows SPA – 4.23km River Little Brosna Callows SPA – 7.2km Lisduff Fen SAC – 2.79km Sharavogue Bog SAC – 4.05km Island Fen SAC – 5.21km Ballyduff/Clonfinane Bog SAC – 5.62km Ridge Road, SW of Rapemills SAC – 6.84km		
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?			No: X
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
<b>Dovegrove Callows SPA – Features of interest include:</b> <ul style="list-style-type: none"> <li>Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]</li> </ul>			
<b>River Little Brosna Callows SPA - Features of interest include:</b> <ul style="list-style-type: none"> <li>Whooper Swan (<i>Cygnus cygnus</i>) [A038]</li> <li>Wigeon (<i>Anas penelope</i>) [A050]</li> <li>Teal (<i>Anas crecca</i>) [A052]</li> <li>Pintail (<i>Anas acuta</i>) [A054]</li> <li>Shoveler (<i>Anas clypeata</i>) [A056]</li> <li>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</li> <li>Lapwing (<i>Vanellus vanellus</i>) [A142]</li> <li>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</li> </ul>			

- Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
- Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]
- Wetland and Waterbirds [A999]

**Lisduff Fen SAC – Features of interest include:**

- Petrifying springs with tufa formation (*Cratoneurion*) [7220]
- Alkaline fens [7230]
- *Vertigo geyeri* (Geyer's Whorl Snail) [1013]

**Sharavogue Bog SAC – features of interest include:**

- [7110] Raised Bog (Active)\*
- [7120] Degraded Raised Bog
- [7150] Rhynchosporion Vegetation

**Island Fen SAC - features of interest include:**

- *Juniperus communis* formations on heaths or calcareous grasslands [5130]
- Alkaline fens [7230]

**Ballyduff/Clonfinane Bog SAC - Features of interest include:**

- Active raised bogs [7110]
- Degraded raised bogs still capable of natural regeneration [7120]
- Depressions on peat substrates of the Rhynchosporion [7150]
- Bog woodland [91D0]

**Ridge Road, SW of Rapemills SAC – Features of interest include:**

- Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometalia*) (\* important orchid sites) [6210]

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](http://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: River Little Brosna Callows SPA Site Code: 004086

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

Site Name: Lisduff Fen SAC, Site Code: 002147

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002147.pdf>

Site Name: Sharavogue Bog SAC Site Code: 000585

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000585.pdf>

Site Name: Island Fen SAC Site Code: 002236

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002236.pdf>

Site Name: Ballyduff/Clonfinane Bog SAC - Site Code: 000641

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000641.pdf>

Site Name: Ridge Road, SW of Rapemills SAC – Site Code: 000919

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000919.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)

<p><b>Would there be...</b></p> <p>... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).</p>	<p>Not likely due to the location and type of development. The site is sufficient distance from the European site.</p>
<p>... a reduction in habitat area on a European site?</p>	<p>There will be no reduction in the habitat area. The site is sufficient distance from the European site.</p>

... 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.
<b>(E) SCREENING CONCLUSION:</b>	
<b>Screening can result in:</b>	
1.	<i>AA is not required</i> because the project is directly connected with / necessary to the nature conservation management of the site.
2.	<i>No potential for significant effects / AA is not required.</i>
3.	<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.
Therefore, does the project fall into category 1, 2 or 3 above?	Category 2
Justify why it falls into relevant category above:	<b>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.</b>
<b>Name:</b>	Enda Dolan 
<b>Position:</b>	Graduate Planner
<b>Date:</b>	21 <sup>st</sup> December 2023