

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

REFERENCE: DEC 24/104

NAME OF APPLICANT: David Condron,

ADDRESS FOR CORRESPONDENCE: 88 Kilnacourt Woods, Portarlinton, Co. Laois.

NATURE OF APPLICATION: request for declaration under section 5 of the planning & development act 2000, as amended as to whether new external doors and windows, new gutters, internal works, new boiler heating system and new wastewater disposal system is/ is not development and is /is not exempted development.

LOCATION OF DEVELOPMENT: Beechfield House, Treascon, Portarlinton, Co. Offaly. R32 A242.

WHEREAS a question has arisen as to

- whether new external doors and windows, new gutters, internal works, new boiler heating system and new wastewater disposal system at Treascon is / is not considered development and is /is not exempted development.

AND WHEREAS David Condron 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)Section 4(1)(h) of the Planning & Development Act 2000, as amended.

AND WHEREAS Offaly County Council has concluded that –

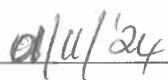
- The new external doors and windows, new gutters, internal works, new boiler heating system is considered development and is exempted development.
- The replacement wastewater disposal system is considered development and is not exempted development.

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

- The new external doors and windows, new gutters, internal works, new boiler heating system is **considered development and is exempted development.**
- The replacement wastewater disposal system **is considered 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


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 24/104
Question:	Whether new external doors and windows, new gutters, internal works, new boiler heating system and new waste water disposal system is/ is not development and is /is not exempted development
Applicant:	David Condron
Location:	Treascon

1. Proposal

The question has arisen as to whether new external doors and windows, new gutters, internal works, new boiler heating system and new waste water disposal system

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

Location

The site is located in the countryside of County Offaly. On a site visit on the 31/10/2024 it was noted that a habitable house is present on site. A house is under constructed to the rear of the subject dwelling.

2. Relevant Planning History:

06/1314 ROWENA MOONEY granted RETENTION OF CHANGES TO FRONT ELEVATION. PERMISSION IS SOUGHT TO RETAIN TWO ADDITIONAL REAR ROOF LIGHTS FOR ATTIC STORE AND POSITION OF SITE ENTRANCE

00/860 DAVID MOONEY granted OUTLINE PERMISSION DWELLINGHOUSE, SEPTIC TANK & EFFLUENT TREATMENT SYSTEM

01/865 ROWENA MOONEY granted OUTLINE PERMISSION for DWELLINGHOUSE, SEPTIC TANK & EFFLUENT TREATMENT SYSTEM

02/1197 ROWENA MOONEY granted APPROVAL for DWELLING HOUSE, SEPTIC TANK AND EFFLUENT TREATMENT SYSTEM (OUTLINE REF NO. PL2/01/865)

Dec 07/13 Declaration issued under section 5 of the planning and development act 2000 that use of house to use as a residence for persons with an intellectual or physical disability or mental illness and person providing care for such persons is exempted development.

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—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structure

(j) development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such;

4. Screening

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.

Please see attached EIA screening.

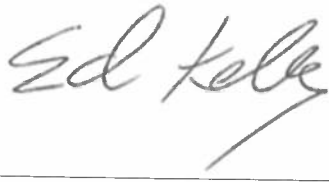
5. Evaluation

Question: Is the following works considered as Development?

Yes

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

I consider that the new waste water disposal system requires planning permission. The other works are exempted development.

A handwritten signature in black ink, appearing to read "Ed Kelly", written over a horizontal line.

Ed Kelly

ASEP

1/11/2024

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 new external doors and windows, new gutters, internal works, new boiler heating system and new waste water disposal system

At Treascon is / is not considered development and is /is not exempted development

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AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to:

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- The replacement waste water disposal system is considered development and is not exempted development.



Ed Kelly

ASEP

1/11/2024



EIA Screening Form

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	Dec 24/104
Development Summary:	Domestic works
Was a Screening Determination carried out under Section 176A-C?	No, Proceed to Part A
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1 , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
No	Proceed to Part B
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2 , of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)	
No, the development is not a project listed in Schedule 5, Part 2	No Screening required

Ed Kelly
ASEP
1/11/2024

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.: DEC24/104

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:	
Proposed development:	Domestic development
Site location:	Treascon
Identification of nearby <i>European Site(s)</i> :	Barrow and river Nore SAC
Distance to <i>European Site(s)</i> :	980 metres
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 site</i> :	None
Is the application accompanied by an EIAR?	No
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):	
The reasons for the designation of the <i>European site</i> :	

The site is a candidate SAC selected for alluvial wet woodlands and petrifying springs, priority habitat on Annex I of the E.U. Habitats Directive. The site is also selected as a candidate SAC for old oak woodlands, floating river vegetation, estuary, tidal mudflats, *Salicornia* mudflats, Atlantic salt meadows Mediterranean salt meadows, dry heath and eutrophic tall herbs, all habitats listed on Annex I of the E.U. Habitats Directive. The site is also selected for the following species listed on Annex II of the same directive - Sea Lamprey, River Lamprey, Brook Lamprey, Freshwater Pearl Mussel, Nore Freshwater Pearl Mussel, Crayfish, Twaite Shad, Atlantic Salmon, Otter, Desmoulin's Whorl Snail *Vertigo moulinsiana* and the Killarney Fern.

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.)**

- 1016 Desmoulin's whorl snail *Vertigo moulinsiana*
 - 1029 Freshwater pearl mussel *Margaritifera margaritifera*
 - 1092 White-clawed crayfish *Austropotamobius pallipes*
 - 1095 Sea lamprey *Petromyzon marinus*
 - 1096 Brook lamprey *Lampetra planeri*
 - 1099 River lamprey *Lampetra fluviatilis*
 - 1103 Twaite shad *Alosa fallax*
 - 1106 Atlantic salmon (*Salmo salar*) (only in fresh water) 1130 Estuaries
 - 1140 Mudflats and sandflats not covered by seawater at low tide
 - 1310 *Salicornia* and other annuals colonizing mud and sand
 - 1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)
 - 1355 Otter *Lutra lutra* 1410 Mediterranean salt meadows (*Juncetalia maritimi*)
 - 1421 Killarney fern *Trichomanes speciosum*
 - 1990 Nore freshwater pearl mussel *Margaritifera durrovensis*
 - 3260 Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachion* vegetation
 - 4030 European dry heaths
 - 6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
 - 7220 * Petrifying springs with tufa formation (*Cratoneurion*)
 - 91A0 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
 - 91E0 * Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)
- https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002162.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).*

Given the location the limited nature and size of the development applied for and the characteristics of *European* sites in the vicinity it is considered that 100 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 100 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.

Would there be...	
... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).	None likely
... a reduction in habitat area on a <i>European</i> site?	There will be no reduction in the habitat area.
... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the <i>European</i> site?	None likely
... serious / ongoing disturbance to species / habitats for which the <i>European</i> site is selected (e.g. because of increased noise, illumination and human activity)?	None likely
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the <i>European</i> site?	None likely
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]. .	No

(E) SCREENING CONCLUSION:	
<i>Screening can result in:</i>	
1	<i>AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.</i>
2	<i>No potential for significant effects / AA is not required.</i>
3	<i>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.</i>
	<i>Conclusion:2</i>
	<p><i>Justify why it falls into relevant category above:</i></p> <p><i>Given the location and the nature and size of the development applied for and the characteristics of European sites in the vicinity and the appropriate assessment guidelines it is considered that the development will be unlikely to have significant effects on any European sites.</i></p>
Signed:	Ed Kelly
Date:	1/11/2024