

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 24/116

NAME OF APPLICANT: GARY MULLINS,

ADDRESS FOR CORRESPONDENCE: C/O RUAIRI WHELAN,  
CONSULTANT ENGINEER,  
CANAL ROAD, PORTARLINGTON,  
CO. LAOIS.

NATURE OF APPLICATION: request for declaration under Section 5 of the Planning & Development Act 2000, as amended as whether the proposed opening of a new agricultural entrance is, or is not, development and is, or is not, exempted development at Sranure, Cloneygowan, Co Offaly.

LOCATION OF DEVELOPMENT: SRANURE, CLONEYGOWAN, CO OFFALY.

WHEREAS a question has arisen as to whether the proposed opening of a new agricultural entrance is, or is not, development and is, or is not, exempted development at Sranure, Cloneygowan, Co Offaly.

AS INDICATED on the particulars received by the Planning Authority on the 7<sup>th</sup> November 2024 and 6<sup>th</sup> December 2024.

AND WHEREAS Gary Mullins c/o Ruairi Whelan, Consultant Engineer, Canal Road, Portarlington, Co. Laois have 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(2)(a)(i) of the *Planning and Development Act 2000, as amended*.
- (b) Article 6 of the *Planning and Development Regulations 2001 (as amended)*.
- (c) Class 9 (Sundry works) in Part 1, of Schedule 2 of the *Planning and Development Regulations 2001 (as amended)*.
- (d) Article 9 (1) (ii) *Restrictions on Exemption*, of the *Planning and Development Regulations 2001 (as amended)*.
- (e) Class 9 in Part 1, of Schedule 2 of the *Planning and Development Regulations 2001*.

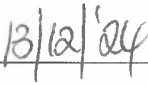
AND WHEREAS Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to Section 4(2)(a)(i).

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 opening of a new agricultural entrance **is development and is exempted development** at Sranure, Cloneygowan, Co Offaly.

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

<b>File Reference:</b>	Dec. 24/116
<b>Question:</b>	Whether the proposed opening of a new agricultural entrance is, or is not, development and is, or is not, exempted development
<b>Applicant:</b>	Gary Mullins
<b>Correspondence Address:</b>	Ruairi Whelan, Consultant Engineer, Canal Road, Portarlinton, Co. Laois
<b>Location:</b>	Sranure, Cloneygowan, Co Offaly

#### 1. Introduction

Whether the proposed opening of a new agricultural entrance is, or is not, development and is, or is not, exempted development.

#### 2. Review of Further Information

Further information (FI) was sought by the Planning Authority on the 4<sup>th</sup> December 2024 and subsequently received by the Planning Authority on 6<sup>th</sup> December 2024.

This report should be read in conjunction with the previous planner's report dated 27<sup>th</sup> November 2024.

The following FI was sought, and the response is as follows:

- Having regard to the conditions and limitations of Class 9 (Sundry works) in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended), the Applicant is required to provide the confirm the maximum height of the proposed agricultural gate.*

The Applicant confirms that the proposed agricultural gate will be 1.2 metres high.

#### 3. Evaluation

Having considered the FI response and having regard to Class 9 (Sundry works) in Part 1, of Schedule 2 of the *Planning and Development Regulations 2001 (as amended)*, the Area Planner notes the height of the proposed gate satisfies the condition and limitation set out in Class 9 and is therefor exempted development.

#### 4. Recommendation

Having assessed the Further Information received and the previous planning report on file, it is considered the proposed opening of a new agricultural gateway 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 proposed opening of a new agricultural entrance is, or is not, development and is, or is not, exempted development at Sranure, Cloneygowan, Co Offaly.

**AS INDICATED** on the particulars received by the Planning Authority on the 7<sup>th</sup> November 2024 and 6<sup>th</sup> December 2024.

**AND WHEREAS** Gary Mullins c/o Ruairi Whelan, Consultant Engineer, Canal Road, Portarlington, Co. Laois have 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(2)(a)(i) of the *Planning and Development Act 2000, as amended*.
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- (d) Article 9 (1) (ii) *Restrictions on Exemption, of the Planning and Development Regulations 2001 (as amended)*.
- (e) Class 9 in Part 1, of Schedule 2 of the *Planning and Development Regulations 2001*

**AND WHEREAS** Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to section 4(2)(a)(i).

**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 opening of a new agricultural entrance **is development and is exempted development** at Sranure, Cloneygowan, Co Offaly.

*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 Finlay  
Graduate Planner

11<sup>th</sup> December 2024

*Ed Kelly*

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Ed Kelly  
ASEP

12<sup>th</sup> December 2024

**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 24/116

<b>(A) DESCRIPTION OF PROJECT AND LOCAL SITE:</b>			
Proposed development:	Whether the proposed opening of a new agricultural entrance is, or is not, development and is, or is not, exempted development		
Site location:	Sranure, Cloneygowan, Co Offaly		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	River Barrow and River Nore SAC 5.1Km		
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>(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):</b>			
The reasons for the designation of the European site(s):	<p><b>River Barrow and River Nore SAC – Qualifying interest:</b>                      Estuaries [1130]                      Mudflats and sandflats not covered by seawater at low tide [1140]                      Reefs [1170]                      Salicornia and other annuals colonising mud and sand [1310]                      Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]                      Mediterranean salt meadows (Juncetalia maritimi) [1410]                      Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]                      European dry heaths [4030]                      Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]                      Petrifying springs with tufa formation (Cratoneurion) [7220]                      Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]                      Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p>		

<p>Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]  Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]  Austropotamobius pallipes (White-clawed Crayfish) [1092]  Petromyzon marinus (Sea Lamprey) [1095]  Lampetra planeri (Brook Lamprey) [1096]  Lampetra fluviatilis (River Lamprey) [1099]  Alosa fallax fallax (Twaite Shad) [1103]  Salmo salar (Salmon) [1106]  Lutra lutra (Otter) [1355]  Trichomanes speciosum (Killarney Fern) [1421]</p>	
<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 European site synopses and, if applicable, a Conservation Management Plan; all available on <a href="http://www.npws.ie">www.npws.ie</a>) <b>(ATTACH INFO.)</b></p>	
<p><b>SITE NAME: River Barrow and River Nore SAC, SITE CODE: 002162</b>  <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002162.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002162.pdf</a></p>	
<p><b>(C) NPWS ADVICE:</b></p>	
<p>Advice received from NPWS over phone:</p>	<p>None Received</p>
<p>Summary of advice received from NPWS in written form <b>(ATTACH SAME):</b></p>	<p>None Received</p>
<p><b>(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:</b></p>	
<p><i>(The purpose of this is to identify if the effect(s) identified could be significant – if <b>uncertain</b> assume the effect(s) are significant).</i></p>	
<p>If the answer is 'yes' to any of the questions below, then the effect is significant.  <i>(Please justify your answer. 'Yes' / 'No' alone is insufficient)</i></p>	
<p><b>Would there be...</b>  ... 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>
<p>... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the European site?</p>	<p>Not likely due to the location and type of development  The site is sufficient distance from the European site.</p>
<p>... serious / ongoing disturbance to species / habitats for which the European site is selected (e.g. because of increased noise, illumination and human activity)?</p>	<p>Not likely due to the location and type of development  The site is sufficient distance from the European site.</p>
<p>... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?</p>	<p>None 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 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><b>(E) SCREENING CONCLUSION:</b></p>	
<p><b>Screening can result in:</b></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>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><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></p>
<p><b>Name:</b></p>	<p></p> <p>Enda Finlay</p>
<p><b>Position:</b></p>	<p>Graduate Planner</p>
<p><b>Date:</b></p>	<p>11<sup>th</sup> December 2024</p>