OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 24/45

NAME OF APPLICANT: Cillian Farrell

ADDRESS FOR CORRESPONDENCE: Unit 4, Monasteroris Business Park, Edenderry, Co. Offaly, R45 DW20.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the extension of additional internal mezzanine level is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Unit 4, Monasteroris Business Park, Edenderry, Co. Offaly, R45 DW20.

WHEREAS a question has arisen as to whether the extension of additional internal mezzanine level is or is not development and is or is not exempted development at Unit 4, Monasteroris Business Park, Edenderry, Co. Offaly, R45 DW20.

AS INDICATED on the particulars received by the Planning Authority on the 29th April 2024.

AND WHEREAS Cillian Farrell 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(1), 3(1) of the Planning & Development Act 2000, as amended.

AND WHEREAS Offaly County Council has concluded that the proposed works is development and is not exempted development as no exemption exists for the extension of a commercial area into the roof of a property and the proposal represents a material intensification of use.

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 of additional internal mezzanine level **is development** and **is not exempted development** at Unit 4, Monasteroris Business Park, Edenderry, Co. Offaly, R45 DW20.

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

24/05/2024

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

File Reference:	***Dec. 24/45***
Question:	*Whether the extension of additional internal mezzanine level is or is not development and is or is not exempted development.*
Applicant:	*Cillian Farrell*
Correspondence Address:	*Unit 4, Monasteroris Business Park, Edenderry, Co. Offaly, R45 DW20.*
Location:	*Unit 4, Monasteroris Business Park, Edenderry, Co. Offaly, R45 DW20.*

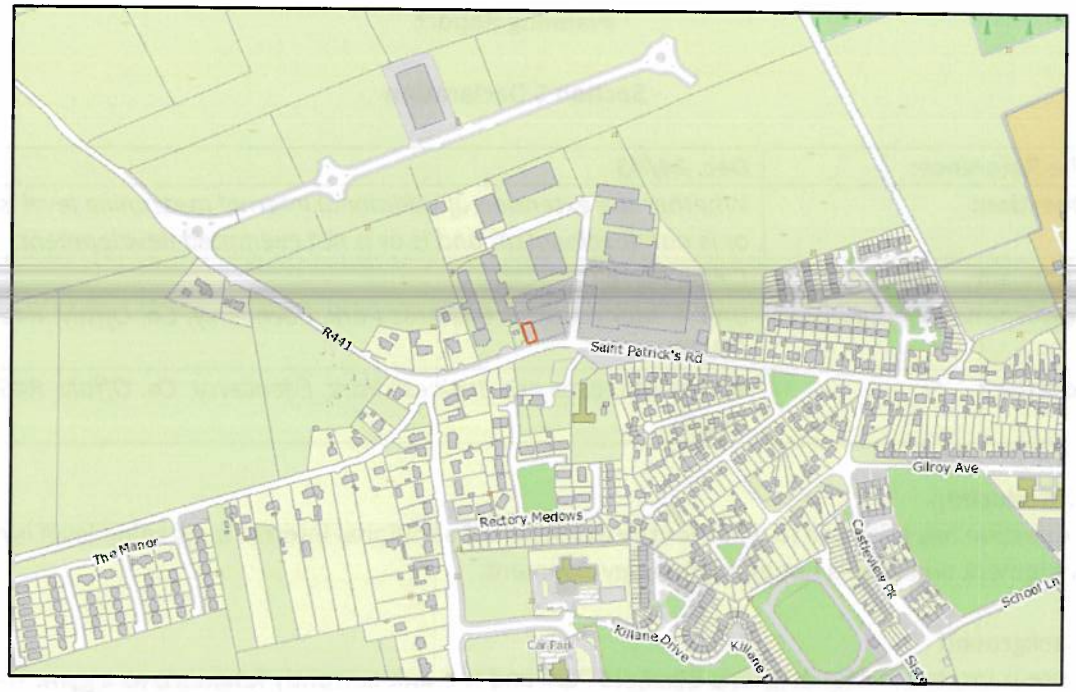
1. Introduction

The question has arisen as to whether the extension of additional internal mezzanine level is or is not development and is or is not exempted development.

2. Background

The site is located in Monasteroris Business Park and the unit currently functions as a gym. The site is zoned as Industrial and Warehousing within the Edenderry Local Area Plan 2023-2029 and is located off the local primary road L-1027-1.

Image 1: Subject site



Images 2 and 3: Site location (red line boundary).

3. Site History

On site:

Ref 06713: Frank Lawlor was granted permission conditionally for to demolish an existing industrial unit and to construct in its place 6 no commercial/light industrial units and to connect to the existing services adjacent to the site including foul and surface water and to provide a one way traffic system to service units and a new entrance onto public road and associated site works.

Adjoining land:

Ref 02508: Declan Guing was granted permission conditionally for an extension to industrial unit to include to include single storey stores.

4. Legislative Context

In order to assess whether or not the proposed works constitute exempted development, regard must be had to the following items of legislation:

Statutory Provisions

Section 2 (1) Planning and Development Act 2000, as amended, states as follows:

> *"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*

Section 3 (1) Planning and Development Act 2000, as amended, defines development.

> *"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.*

5. Proposal by Applicants

The Applicant has advised of the extension of additional internal mezzanine level. The existing mezzanine within the gym has a total floor area of 72m². The proposal is to expand this by an additional 72m² with an additional access stairway and railing. No external works are proposed to be carried out.

6. Evaluation

Question: ***Whether the proposed works (as listed) to the existing dwelling are development and if so, are they exempted development?***

In considering the proposed works against the definitions of 'development' and 'works' as provided in the Act, it is the view of the Planning Authority that the proposed works are deemed as development as it includes alteration and installation works.

7.Question: Is this proposal considered as Exempted Development?

It is noted that there are no exemptions in the planning acts or regulations to extend a commercial premises. The proposal represent a material intensification of use.

An appropriate assessment screening has been carried out see attached.

It is considered that the proposed development does not constitute a development listed in Schedule 5 of the Planning and Development Regulations 2001 as amended. Furthermore, it is not a sub-threshold development. Accordingly an EIAR is not required.

8.Conclusion

It is recommended that the Applicant be advised that the proposed development **is development** and **is not 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 extension of additional internal mezzanine level is or is not development and is or is not exempted development at Unit 4, Monasteroris Business Park, Edenderry, Co. Offaly, R45 DW20.

AS INDICATED on the particulars received by the Planning Authority on the 29th April 2024.

AND WHEREAS Cillian Farrell 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(1) and 3(1) of the Planning & Development Act 2000, as amended.

AND WHEREAS Offaly County Council has concluded that the proposed works is development and is not exempted development as no exemption exists for the extension of a commercial area into the roof of a property and the proposal represents a material intensification of use.

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 of additional internal mezzanine level **is development** and **is not exempted development** at Unit 4, Monasteroris Business Park, Edenderry, Co. Offaly, R45 DW20.

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

Enda Dolan
Assistant Planner

16th May 2024

Ed Kelly

Ed Kelly A/Senior Executive Planner

21th May 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 24/45

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	**Whether the extension of additional internal mezzanine level is or is not development and is or is not exempted development.**		
Site location:	**Unit 4, Monasteroris Business Park, Edenderry, Co. Offaly, R45 DW20.**		
Site size:	**0.04 hectares**	Floor Area of Proposed Development:	**72sqm**
Identification of nearby European Site(s):	**The Long Derries, Edenderry SAC – 5.04km**		
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):			
The Long Derries 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) **(ATTACH INFO.)**			
Site Name: The Long Derries SAC Site Code: : 000925 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000925.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 *in-combination effects* 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:	Enda Dolan **Enda Dolan**		
Position:	**Assistant Planner**	**Date:**	**16th May 2024.**