

**OFFALY COUNTY COUNCIL  
DECLARATION UNDER SECTION 5 OF THE  
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED**

**REFERENCE:** DEC 24/63

**NAME OF APPLICANT:** Ballyegan Hall Committee

**ADDRESS FOR CORRESPONDENCE:** c/o Philip Ryan, Deerpark, Coolderry, Birr, Co. Offaly.

**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the proposed works (detailed as internal upgrade works, insulation, floor finishes, new kitchen, upgrade to heating system and fire detection system, replacement of 2 no external doors, replacement of post and rail fence and stone wall at rear) is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** Ballyegan Hall, Sharavogue, Birr, Co. Offaly, R42 K002.

**WHEREAS** a question has arisen as to whether the proposed works (detailed as internal upgrade works, insulation, floor finishes, new kitchen, upgrade to heating system & fire detection system, replacement of 2 no external doors, replacement of post & rail fence & stone wall at rear) at Ballyegan Hall, Sharavogue, Birr, Co. Offaly, R42 K002 is or is not development and is or is not exempted development.

**AS INDICATED** on the particulars received by the Planning Authority on the 31st May 2024.

**AND WHEREAS** Ballyegan Hall Committee c/o Philip Ryan, Deerpark, Coolderry, Birr, Co. Offaly requested a declaration on the said question from Offaly County Council.

**AND WHEREAS** Offaly County Council, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard particularly to -

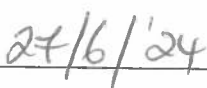
- Section 2, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended.

**AND WHEREAS** Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to section 4(1)(h).

**NOW THEREFORE** Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) of the Planning and Development Act, as amended, hereby decides that the proposed works (detailed as internal upgrade works, insulation, floor finishes, new kitchen, upgrade to heating system & fire detection system, replacement of 2 no external doors, replacement of post & rail fence & stone wall at rear) at Ballyegan Hall, Sharavogue, Birr, Co. Offaly, R42 K002 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*

  
\_\_\_\_\_  
*Date*

*Note: 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.*



## Planning Report - Section 5 Declaration

<b>File Reference:</b>	Dec. 24/63
<b>Question:</b>	Whether the proposed works (detailed as internal upgrade works, insulation, floor finishes, new kitchen, upgrade to heating system & fire detection system, replacement of 2 no external doors, replacement of post & rail fence & stone wall at rear) at Ballyegan Hall is or is not development and if so, are they exempted development.
<b>Applicant:</b>	Ballyegan Hall Committee
<b>Correspondence Address:</b>	c/o Philip Ryan, Deerpark, Coolderry, Birr, Co. Offaly
<b>Location:</b>	Ballyegan Hall, Sharavogue, Birr, Co. Offaly. R42 K002

### 1. Introduction

The question has arisen as to whether the proposed works (detailed as internal upgrade works, insulation, floor finishes, new kitchen, upgrade to heating system & fire detection system, replacement of 2 no external doors, replacement of post & rail fence & stone wall at rear) at Ballyegan Hall is or is not development and if so, are they exempted development.

### 2. Background

The subject site is located in the open countryside adjacent to the national route, N62 and approximately 1km north of the Sharavogue crossroads.

### 3. Site History

01/424 - Kilcolman Social Club sought permission for the demolition of extension, new extension & alterations to community hall – Granted.

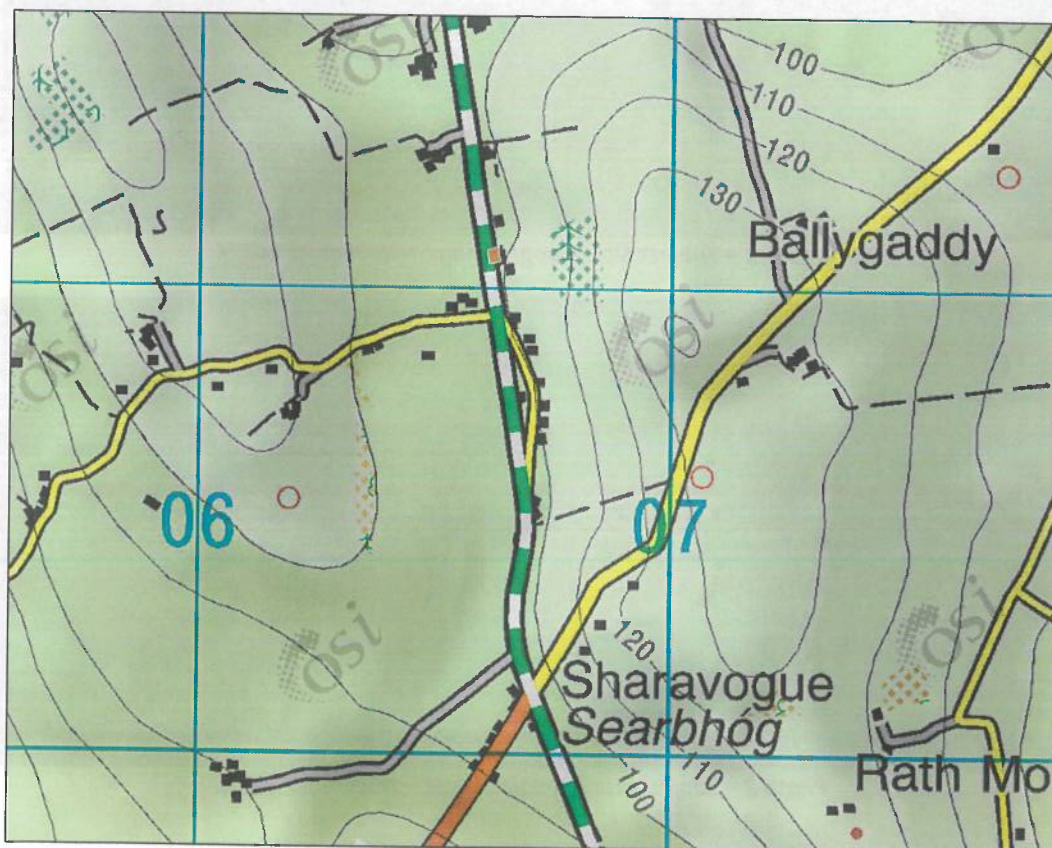
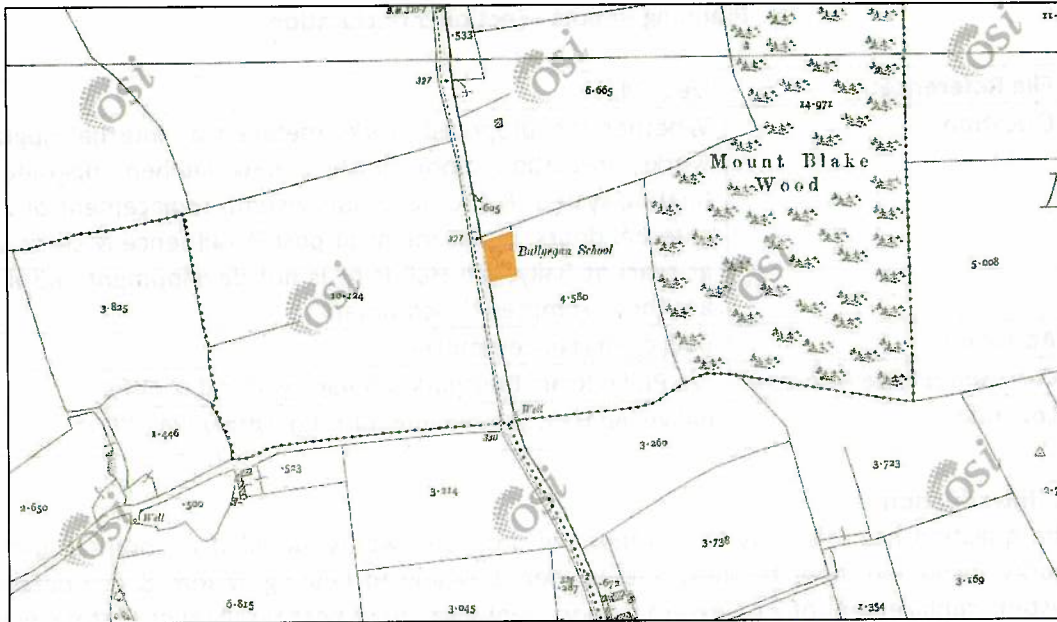


Figure 1 – Subject Site Location (highlighted in orange).



*Figure 2 – Extract from historical maps showing subject site as Ballyegan School.*



*Photo 1 – Subject Site (Google image – November 2022).*



*Photo 2 – Subject Site (Google image – November 2022).*

#### **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:**

*“alteration” includes— (a) plastering or painting or the removal of plaster or stucco, or (b) the replacement of a door, window or roof, that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;*

*“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 as:**

*“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 - Exempted Development, Planning and Development Act 2000 (as amended)**

Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of this Act including:

(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 and which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of other structures or neighbouring structures.*

Section 4 (2) (a) - *The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that -*

(i) *by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development.*

##### **Regulatory Provisions**

Article 6 of the Planning and Development Regulations 2001 (as amended) states, *inter alia*, that:

*“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".*

## **5. Proposal by Applicants**

The Applicant wishes to ascertain whether the following proposed works to the existing Ballyegan Hall are deemed to be development and if so, is it exempted development:

- (a) Internal upgrade works.
- (b) Insulation.
- (c) Floor finishes.
- (d) New kitchen.
- (e) Upgrade to heating system including replacement of existing oil tank.
- (f) Fire detection system.
- (g) Replacement of 2 no external doors.
- (h) Replacement of post & rail fence and stone wall at rear.

## **6. Evaluation**

### **Question: Is the following works considered as Development?**

As the proposed works comprises of alterations and improvements to an existing structure, it is considered that the works are 'development' in accordance with section 3(1) of the Planning and Development Act, 2000, as amended.

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

These works are deemed as exempted development in accordance with Section 4 (1) (h) of the 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 structures.*

The proposed works are being carried out for maintenance/improvement purposes. The Planning Authority deems the works to be exempted development.

## **7. Screening**

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.

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. Recommendation**

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 proposed works (detailed as internal upgrade works, insulation, floor finishes, new kitchen, upgrade to heating system & fire detection system, replacement of 2 no external doors, replacement of post & rail fence & stone wall at rear) at Ballyegan Hall, Sharavogue, Birr, Co. Offaly, R42 K002 is or is not development and is or is not exempted development.

**AS INDICATED** on the particulars received by the Planning Authority on the 31<sup>st</sup> May 2024.

**AND WHEREAS** Ballyegan Hall Committee c/o Philip Ryan, Deerpark, Coolderry, Birr, Co. Offaly requested a declaration on the said question from Offaly County Council;

**AND WHEREAS** Offaly County Council, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard particularly to -

- (a) Section 2, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended.

**AND WHEREAS** Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to section 4(1)(h).

**NOW THEREFORE** Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) of the Planning and Development Act, as amended, hereby decides that:

The proposed works (detailed as internal upgrade works, insulation, floor finishes, new kitchen, upgrade to heating system & fire detection system, replacement of 2 no external doors, replacement of post & rail fence & stone wall at rear) at Ballyegan Hall, Sharavogue, Birr, Co. Offaly, R42 K002 is **development** and is **exempted development**.

*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.*



Úna McCafferkey  
(Executive Planner)

26<sup>th</sup> June 2024

Date



26<sup>th</sup> June 2024

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Ed Kelly  
(A/Senior Executive Planner)

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 24/63

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the proposed works (detailed as internal upgrade works, insulation, floor finishes, new kitchen, upgrade to heating system & fire detection system, replacement of 2 no external doors, replacement of post & rail fence & stone wall at rear) at Ballyegan Hall is or is not development and if so, are they exempted development.		
Site location:	Ballyegan Hall, Sharavogue, Birr, Co. Offaly. R42 K002		
Site size:	Not provided	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Sharavogue Bog SAC – 0.5m Lisduff Fen SAC – 2.58km Ballyduff/Clonfinane Bog SAC – 6.18km Dovegrove Callows SPA – 8.12km Island Fen SAC – 6.69km River Little Brosna Callows SPA – 10.15m		
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?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>	
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):	Sharavogue Bog SAC – Features of interest include: <ul style="list-style-type: none"> <li>• Active raised bogs [7110]</li> <li>• Degraded raised bogs still capable of natural regeneration [7120]</li> <li>• Depressions on peat substrates of the Rhynchosporion [7150]</li> </ul> Lisduff Fen – Features of interest include: <ul style="list-style-type: none"> <li>• Petrifying springs with tufa formation (Cratoneurion) [7220]</li> <li>• Alkaline fens [7230]</li> <li>• Vertigo geyeri (Geyer's Whorl Snail) [1013]</li> </ul> Ballyduff/Clonfinane Bog SAC - Features of interest include: <ul style="list-style-type: none"> <li>• Active raised bogs [7110]</li> <li>• Degraded raised bogs still capable of natural regeneration [7120]</li> <li>• Depressions on peat substrates of the Rhynchosporion [7150]</li> <li>• Bog woodland [91D0]</li> </ul> Sharavogue Bog SAC – Features of interest include: <ul style="list-style-type: none"> <li>• Active raised bogs [7110]</li> <li>• Degraded raised bogs still capable of natural regeneration [7120]</li> <li>• Depressions on peat substrates of the Rhynchosporion [7150]</li> </ul> Island Fen – Features of interest include:		

<ul style="list-style-type: none"> <li>Juniperus communis formations on heaths or calcareous grasslands [5130]</li> <li>Alkaline fens [7230]</li> </ul>	
<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>) (ATTACH INFO.)</p>	
<p><b>Site Name: Island Fen SAC, Site Code: 002236</b>  <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002236.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002236.pdf</a></p> <p><b>Site Name: Sharavogue Bog SAC, Site Code: 000585</b>  <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000585.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000585.pdf</a></p> <p><b>Site Name: Lisduff Fen SAC, Site Code: 002147</b>  <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002147.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002147.pdf</a></p> <p><b>Site Name: Ballyduff/Clonfinane Bog SAC, Site Code: 000641</b>  <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000641.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000641.pdf</a></p> <p><b>Site Name: Dovegrove Callows SPA, Site Code: 004137</b>  <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004137.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004137.pdf</a></p> <p><b>Site Name: River Little Brosna Callows SPA, Site Code: 004086</b>  <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004086.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004086.pdf</a></p>	
<p><b>(C) NPWS ADVICE:</b></p>	
Advice received from NPWS over phone:	None Received
Summary of advice received from NPWS in written form (ATTACH SAME):	None Received
<p><b>(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:</b></p> <p style="text-align: center;"><i>(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain 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.  (Please justify your answer. 'Yes' / 'No' alone is insufficient)</p>	
<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>
<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>	

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:		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:	Úna McCafferkey <i>Úna McCafferkey</i>	
Position:	Executive Planner	Date: 26 <sup>th</sup> June 2024

