

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 24/84

NAME OF APPLICANT: PAT CARROLL

ADDRESS FOR CORRESPONDENCE: BALLYBEG,  
BROSNA,  
BIRR,  
CO. OFFALY

**NATURE OF APPLICATION:** request for declaration under section 5 of the planning & development act 2000, as amended as to whether the removal of 14.6 hectares of non-native conifer plantation to allow natural regeneration of the site is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** Ballybeg, Brosna, Birr, Co Offaly.

**WHEREAS** a question has arisen as to whether the removal of 14.6 hectares of non-native conifer plantation to allow natural regeneration of the site is or is not development and is or is not exempted development at Ballybeg, Brosna, Birr, Co. Offaly.

**AS INDICATED** on the particulars received by the Planning Authority on the 8th August 2024 and 10th October 2024,

**AND WHEREAS** Pat Carroll 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 -

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

**AND WHEREAS** Offaly County Council has concluded that the removal of 14.6 hectares of non-native conifer plantation to allow natural regeneration of the site is development and is exempted development at Ballybeg, Brosna, Birr, Co. Offaly.

**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 removal of 14.6 hectares of non-native conifer plantation to allow natural regeneration of the site **is development and is exempted development** at Ballybeg, Brosna, Birr, 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

30/10/2024

\_\_\_\_\_  
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.

OFFALY COUNTY COUNCIL

Section 5 Declaration

<b>File Reference:</b>	Dec 24/84
<b>Question:</b>	Whether or not the removal of 14.6 hectares of non-native conifer plantation is or is not development and is or is not excepted development
<b>Applicant:</b>	Pat Carroll
<b>Location:</b>	Ballybeg, Brosna, Birr, Co. Offaly
<b>Date received:</b>	8 <sup>th</sup> August 2024 FI response received 10 <sup>th</sup> October 2024
<b>Date due:</b>	30 <sup>th</sup> October 2024

Second Planning Report

1. Proposal

The question has arisen as to whether or not the removal of 14.6 hectares of non-native conifer plantation to allow natural regeneration of site 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> September 2024 and a response subsequently received by the Planning Authority on the 10<sup>th</sup> October 2024. This report should be read in conjunction with the previous planner's report dated 4<sup>th</sup> September 2024. The following FI was sought and the response is as follows:

- The Applicant is requested to submit a Site Location Map (scale 1:2500) clearly outlining in red the 14.6 hectares of forestry to be removed.*

The Applicant has provided a 'Harvesting Plan Map' which indicates that it is at a scale of 1:2500 in the bottom right corner.



Figure 1: Plan submitted at FI stage.

They state that the submitted plan outlines the 14.6ha of forestry that will be removed, and they will then commence rewilding the site using current native woodland as a seedbank and therefore encouraging natural regeneration.

In addition to the plans/maps previously submitted, the Planning Authority are satisfied with the Applicants response to the FI item.

2. *According to National Monuments Services ([www.archaeology.ie](http://www.archaeology.ie)) part of the site in question may be located within the buffer of National Monument OF042-009. If the forestry to be removed is located within the same buffer the Applicant is requested to clarify if consent was granted under section 14 or a license granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended. If consent was granted under section 14 or a license granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended, the Applicant shall submit a copy of same as part of the Further Information response.*

In response, they refer to the submitted 'site location map' and advise the following:

- Forestry extraction is not located within the buffer zone of National Monument OF042-009.
- National monument is buffered by native woodland which is not being extracted.
- Machinery and extraction of felled timber will also be directed away from the buffer zone of the national monument.
- As the site of forestry removal is not located within the buffer zone of the national monument, consent under Section 14 or a licence under Section 26 of the National Monument Act 1930 is not warranted or needed.

### **3. 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.

### **4. Environmental Impact Assessment Screening**

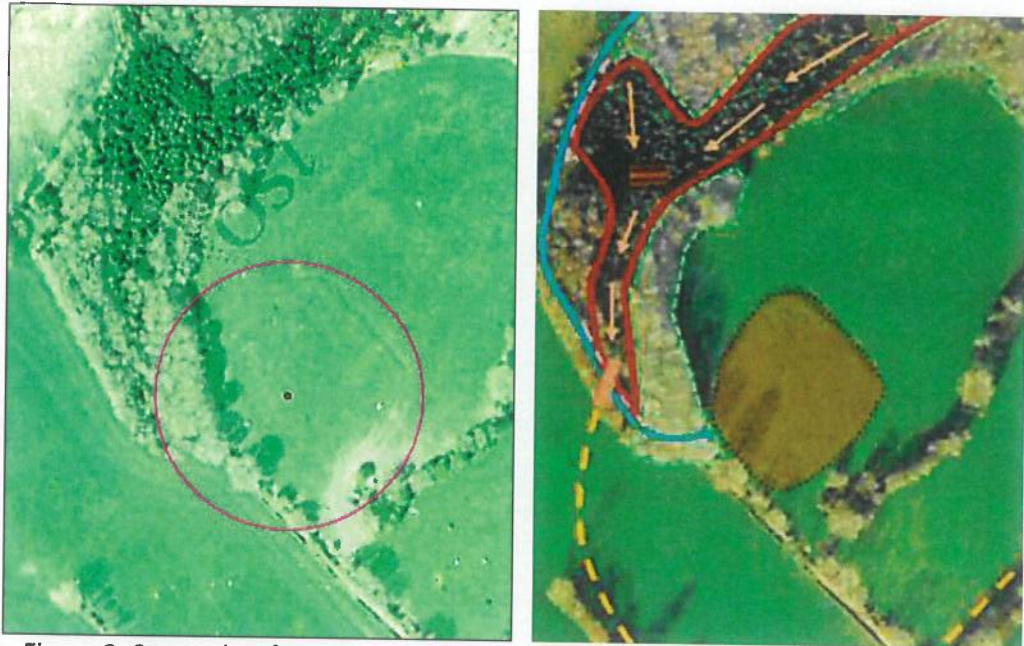
The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the *Planning and Development Regulations 2001 (as amended)* and therefore is not subject to EIA requirements.

### **5. Evaluation**

As noted in the first planning report, the Applicant has stated he would like to remove the 14.6ha of non-native conifer plantation due to poor quality of trees, negative impact on local biodiversity and plantation being planted on peatland which is leading to the peat drying out resulting in carbon loss into the atmosphere. They advised that an existing 'old bog road is in place to allow' for the removal of the trees.

As shown on the submitted Harvesting Plan, native woodland is located directly adjacent to the location of the identified monument; this woodland is to be retained. Beyond this to the north west of the national monument, tree felling will take place.

Based on the information provided, the Planning Authority are satisfied that no excavation, alteration or demolition of the identified archaeological monument will take place as a result of the proposed tree removal and rewilding of the subject site.



*Figure 2: Screenshot from the OCC GIS with national monument buffer indicated & Figure 3: Extract from submitted Harvesting Plan.*

#### **6. Recommendation**

Having assessed the further information received and the previous planning report on file, it is the view of the Planning Authority that the proposed removal of 14.6 hectares of non-native conifer plantation to allow natural regeneration of the subject site 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 removal of 14.6 hectares of non-native conifer plantation to allow natural regeneration of the site is or is not development and is or is not exempted development at Ballybeg, Brosna, Birr, Co. Offaly.

**AS INDICATED** on the particulars received by the Planning Authority on the 8<sup>th</sup> August 2024 and 10<sup>th</sup> October 2024,

**AND WHEREAS** Pat Carroll 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, 3(1) and 4(1)(i) of the Planning & Development Act 2000 (as amended);

**AND WHEREAS** Offaly County Council has concluded that the removal of 14.6 hectares of non-native conifer plantation to allow natural regeneration of the site is development and is exempted development at Ballybeg, Brosna, Birr, Co. Offaly.

**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 removal of 14.6 hectares of non-native conifer plantation to allow natural regeneration of the site is **development** and is **exempted development** at Ballybeg, Brosna, Birr, 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.*



Una McCafferkey  
Executive Planner

29<sup>th</sup> October 2024  
Date



Ed Kelly (A/Senior Executive Planner)

29<sup>th</sup> October 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. DEC 24/84**

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:		
Proposed development:	<b>The removal of 14.6 hectares of non native conifer plantation</b>	
Site location:	<b>Ballybeg, Brosna, Birr, Co. Offaly</b>	
Site size:	<b>14.6ha</b>	Floor Area of Proposed Development: <b>N/A</b>
Identification of nearby European Site(s):	<b>SAC 002147 – Lisduff Fen SAC</b>	
Distance to European Site(s):	<b>4.88km</b>	
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:	<b>None</b>	
Is the application accompanied by an EIA?	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):	<p><b><u>Lisduff Fen SAC</u></b>                      Petrifying springs with tufa formation (Cratoneurion) [7220]                      Alkaline fens [7230]                      Vertigo geyeri (Geyer's Whorl Snail) [1013]</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><b>Lisduff Fen SAC</b>  <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002147.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002147.pdf</a></p>	

(C) NPWS ADVICE:	
Advice received from NPWS over phone:	None Received
Summary of advice received from NPWS in written form <b>(ATTACH SAME):</b>	None Received
(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:	
<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>	
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>	
<b>Would there be...</b> ... 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 <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.
(E) SCREENING CONCLUSION:	
<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	Category 2

above?			
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.	
<b>Name:</b>	Úna McCafferkey		
<b>Position:</b>	Executive Planner	<b>Date:</b>	29 <sup>th</sup> October 2024