

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

**REFERENCE:** DEC 18/2

**NAME AND ADDRESS OF APPLICANT:** Monica Gleeson  
Kinnitty  
Birr  
Co. Offaly

**ADDRESS FOR CORRESPONDENCE:** Monica Gleeson  
Kinnitty  
Birr  
Co. Offaly

**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Acts 2000, as amended as to whether the construction of a forestry harvest road, 425m in length, is or is not exempted development under the Planning and Development Act 2000 (as amended).

**LOCATION OF DEVELOPMENT:** Townlands of Drummin, Kilmacuddy and Lackaroe, Cadamstown, Birr, Co. Offaly

**WHEREAS** a question referred to Offaly County Council on 22<sup>nd</sup> January 2018 has arisen as to whether the construction of a forestry harvest road, 425m in length at townlands of Drummin, Kilmacuddy and Lackaroe, Cadamstown, Birr, Co. Offaly **is development and is or is not exempted development**

**AND WHEREAS** the Planning Authority, in considering this declaration request, had regard particularly to-

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

**AND WHEREAS** Offaly County Council has concluded that:

The proposed development **is Development and is Exempted Development**

**NOW THEREFORE** Offaly County Council, in exercise of powers conferred on it by Section 5 (2) hereby decides that the construction of a forestry harvest road, 425m in length in the townlands of Drummin, Kilmacuddy and Lackaroe, Cadamstown, Birr, Co. Offaly **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

13/2/2018  
Date

# Planning Report

## Section 5 Declaration

**FILE REFERENCE:** Dec 18/2

**QUESTION:** Whether the construction of a forestry harvest road, 425m in length is or is not exempted development.

**APPLICANT:** Monica Gleeson

**CORRESPONDENCE ADDRESS:** Knockbarron,  
Kinnitty,  
Birr,  
Co. Offaly

**LOCATION:** Townslands of Drummin, Kilmacuddy and Lackaroe,  
Cadamstown,  
Birr,  
Co. Offaly

### 1. INTRODUCTION

This referral is a request under Section 5 of the Planning and Development Act 2000, as amended, in respect of the above development.

### 2. SITE HISTORY

None

### 4. LEGISLATIVE FRAMEWORK

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:

The following statutory provisions are relevant to this case:

Section 2(1) of the Planning and Development Act states as follows:

*"In this act, except where the context otherwise requires – 'development' has the meaning assigned to it by Section 3..."*

Section 3(1) of the Planning and Development Act states as follows:

*"In this Act 'development' means except where the context otherwise requires the carrying out of 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<sup>(i)</sup> of the Planning and Development Act 2000, as amended, identifies the following as exempted development:

(i) development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species;

(ia) development (other than where the development consists of provision of access to a public road) consisting of the construction, maintenance or improvement of a road (other than a public road) or works ancillary to such road development, where the road serves forests and woodlands

## 5. EVALUATION:

A) "Is or is not Development"

In this instance, the proposal involves the construction of a forestry harvest road and hence would involve "works" within the meaning of Section 3 of the Act. Such works constitute "development" within the meaning of the Act.

B) "Is or is not Exempted Development"

According to Section 4<sup>(ia)</sup> of the Planning and Development Act 2000, as amended, identifies the construction maintenance or improvement of a road (other than a public road) or works ancillary to such road development, where the road serves forests and woodlands other than where the development consists of provision of access to a public road as exempted development.

## 6. CONCLUSION

I conclude that the construction of a forestry harvest road, 425m in length comes within the scope of Section 4<sup>(ia)</sup> of the 2000 Act, and is exempted development.

*Michael Duffy*  
*Michael Duffy*  
*Assistant planner*  
*8<sup>th</sup> February 2018*

**WHEREAS** a question has arisen as to whether:

Whether the construction of a forestry harvest road, 425m in length, is or is not exempted development under the Planning and Development Act 2000 (as amended).

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

- (a) Sections 2(1), 3(1) & 4<sup>(1)</sup>(a) of the Planning and Development Act 2000, as amended.

**AND WHEREAS** Offaly County Council has concluded that –

The proposed development is Development and is Exempted Development.

**NOW THEREFORE** Offaly County Council, in exercise of powers conferred on it by section 5 (2) of the Planning and Development Act 2000, as amended, hereby decides that the construction of a forestry harvest road, 425m in length is development and is exempted development in the townlands of Drummin, Kilmacuddy and Lackaroe, Cadamstown, Birr, Co. Offaly.

*Mitchell ref 8/2/18*