

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

REFERENCE: DEC 19/1

NAME AND ADDRESS OF APPLICANT: EJ Ireland Access Solutions Ltd.
Roscrea Road
Birr
Co. Offaly, R42 X009

ADDRESS FOR CORRESPONDENCE: Brian Kelly, EMEA QSE Manager
EJ Ireland Access Solutions Ltd.
Roscrea Road
Birr
Co. Offaly, R42 X009

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Acts 2000, as amended as to whether the replacement of existing asbestos roof sheeting on industrial building with new roof sheeting is or is not development and is or is not exempted development under the Planning and Development Act 2000 (as amended).

LOCATION OF DEVELOPMENT: EJ Ireland Access Solutions Ltd., Roscrea Road, Birr, Co. Offaly

WHEREAS a question referred to Offaly County Council on 17th January 2019 has arisen as to whether the replacement of existing asbestos roof sheeting on industrial building with new roof sheeting is considered exempted development in the Planning and Development Act 2000, (as amended).

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

- (a) Section 2 of the Planning and Development Act, 2000, as amended
- (b) Section 3 of the Planning and Development Act, 2000, as amended
- (c) Section 4(1)(h) 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 replacement of existing asbestos roof sheeting on industrial building with new roof sheeting at EJ Ireland Access Solutions Ltd., Roscrea Road, 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

13/2/19

Date

Planning Report Section 5 Declaration

Ref No: 19/1

Applicant:

EJ Ireland Access Solutions Ltd.
Roscrea Road
Birr
Offaly
R42 X009

A question has arisen as to:

“We plan to replace existing asbestos roof sheeting on industrial building located at above address for safety reasons. New roof sheeting shall be Kingspan KS100 RW or equivalent colour matched (brown) to other industrial building roof on the site. Is planning permission required?”

Subject site:

The subject site is located approximately 0.5km to the south of Birr Town fronting onto the N62 National Secondary Route. A number of large industrial type structures are located on site which is zoned Industrial in the Birr Town and Environs Development Plan 2010 – 2016, as extended.

Assessment:

I have inspected the site and reviewed the documentation contained within this file. A photo of the structure to which the question above pertains to, is attached below.



Following a review of the drawings submitted as part of the Section 5 Declaration, I would consider the proposed works to be development having considered Sections 2 and 3 of the Planning & Development Act 2000, as amended.

Section 2

2.— (1) In this Act, except where the context otherwise requires—
“development” has the meaning assigned to it by Section 3, and “develop” shall be construed accordingly;

Section 3:

3.— (1) In this Act, “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.

In addition, I note the following exemption in the Planning Acts:

4(1)(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.

Having regard to the proposal, I consider that the proposed works as maintenance of an existing structure and given that the works solely involve the replacement of the existing roof material with new roof material to match that of the existing, the external appearance of the structure will not be materially affected by such works.

I consider the proposed works in accordance with Section 4(1)(h) of the Planning Act 2000, as amended, and therefore exempted development.

I would therefore recommend that the following Chief Executive Order be issued.

WHEREAS a question has arisen as to whether:

To replace existing asbestos roof sheeting on industrial building located at EJ Ireland Access Solutions Ltd. Roscrea Road, Birr, Co. Offaly for safety reasons. New roof sheeting shall be Kingspan KS100 RW or equivalent colour matched (brown) to other industrial building roof on the site. Is planning permission required?

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

- (a) Sections 2 of the Planning & Development Act 2000, as amended and
- (b) Section 3 of the Planning & Development Act 2000, as amended and
- (c) Section 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**.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) hereby decides that;

The replacement of existing asbestos roof sheeting on industrial building located at EJ Ireland Access Solutions Ltd. Roscrea Road, Birr, Co. Offaly for safety reasons, with new roof sheeting which shall be Kingspan KS100 RW or equivalent colour matched (brown) to other industrial building roof on the site associated works, is development and is exempted development.



Carroll Melia
A/Senior Executive Planner

13th February 2019

**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 Ref. No: S5 Dec 19/1

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:	
Proposed development:	Proposed works to replace existing asbestos roof with similar matched Kingspan roof material.
Site location:	Birr
Site size:	Floor Area of Proposed Development:
Identification of nearby European Site(s):	Dovegrove Callows SPA Lisduff Fen SAC
Distance to European Site(s):	3.76km as the crow flies from Dovegrove Callows SPA 3.3km as the crow flies from Lisduff Fen SAC
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 EIS?	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><u>Dovegrove Callows SPA</u> Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]</p> <p><u>Lisduff Fen SAC</u> Petrifying springs with tufa formation (<i>Cratoneurion</i>) [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 www.npws.ie) (ATTACH INFO.)

PLEASE SEE SITE SYNOPSIS and CONSERVATION OBJECTIVES SHEET ATTACHED.

(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 <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:

Screening can result in:	
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:	Carroll Melia
Position:	A/Senior Executive Planner
Date:	13th February 2019

Carroll Melia



Site Name: Lisduff Fen SAC

Site Code: 002147

Lisduff Fen is situated about 4 km south-east of Birr in Co. Offaly, near Kilcolman crossroads.

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets are Natura 2000 codes):

[7220] Petrifying Springs*
[7230] Alkaline Fens
[1013] Geyer's Whorl Snail (<i>Vertigo geyeri</i>)

The site comprises a wet calcareous fen, with typical fen and marsh species such as Black Bog-rush (*Schoenus nigricans*), Common Reed (*Phragmites australis*), Few-flowered Spike-rush (*Eleocharis quinqueflora*) and Grass-of-parnassus (*Parnassia palustris*). Included as part of the fen system are areas of wet grassland, some birch (*Betula* sp.) and willow (*Salix* sp.) scrub, and some vegetation more akin to that of raised bog, with species such as Heather (*Calluna vulgaris*) and Bog-myrtle (*Myrica gale*). There is a small stand of Scots Pine (*Pinus sylvestris*) at the eastern margin of the site. On the western side, the fen merges into wet grassland which has been improved to varying degrees for pasture.

A fast flowing stream which flows into the fen at the south end is heavily encrusted with calcium carbonate or 'tufa' deposits. Bryophytes recorded include *Fontinalis antipyretica*, *Amblystegium riparium*, *Aneura pinguis* and *Rhynchostegium riparioides*. Higher plants in the stream include Branched Bur-reed (*Sparganium erectum*), Watercress (*Nasturtium officinale*) and Water Mint (*Mentha aquatica*). While key diagnostic bryophytes of the Cratoneurion community were not recorded, this vegetation is considered to correspond to the E.U. Habitats Directive Annex I habitat 'petrifying springs with tufa formation'.

Of major conservation and scientific significance is the presence on the site of a population of the rare snail *Vertigo geyeri*. This species occurs in northern and central Europe, its distribution extending from Ireland in the west to the European Russian states in the east. It is probably a European endemic and is considered to be a glacial relict. Its distribution is very scattered and fragmented, and most populations are fairly isolated. In particular, the Irish populations are very isolated from the main European range of the species. Throughout its entire range it is classified as being endangered, vulnerable or rare.

Vertigo geyeri is a species associated with calcareous fens, where it occurs at the base of small sedges (*Carex* spp.) and Black Bog-rush, where these are growing at the water edge. The sites are often in open, tufa-forming calcareous spring flushes with a stable water table and of mesotrophic type.

A survey in 1995 confirmed the presence of the species at Lisduff. The habitat was considered to be excellent for the species and there were no apparent threats. However, a small site such as Lisduff could easily be damaged or destroyed by drainage activities.

Overall, this is an important site owing to the presence of alkaline fen and petrifying spring, habitats listed on Annex I of the E.U. Habitats Directive. It is also of high conservation importance for the occurrence of *Vertigo geyeri*, a rare mollusc listed on Annex II of this Directive.



Conservation objectives for Lisduff Fen SAC [002147]

The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. These habitats and species are listed in the Habitats and Birds Directives and Special Areas of Conservation and Special Protection Areas are designated to afford protection to the most vulnerable of them. These two designations are collectively known as the Natura 2000 network.

European and national legislation places a collective obligation on Ireland and its citizens to maintain habitats and species in the Natura 2000 network at favourable conservation condition. The Government and its agencies are responsible for the implementation and enforcement of regulations that will ensure the ecological integrity of these sites.

The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.

Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:

Code	Description
7220	Petrifying springs with tufa formation (Cratoneurion)*
7230	Alkaline fens

* denotes a priority habitat

Code	Common Name	Scientific Name
1013	Geyer's Whorl Snail	<i>Vertigo geyeri</i>



Citation: *NPWS (2016) Conservation objectives for Lisduff Fen SAC [002147]. Generic Version 5.0.
Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.*

SITE SYNOPSIS

SITE NAME: DOVEGROVE CALLOWS SPA

SITE CODE: 004137

Dovegrove Callows is an area of callowland beside the Little Brosna River 2 km downstream from Birr, Co. Offaly and 5 km upstream from the start of the main area of River Little Brosna callows. The main habitat is wet grassland which floods.

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for Greenland White-fronted Goose.

The site is an important feeding area for the internationally important Little Brosna Greenland White-fronted Goose flock (527 individuals - 5 year mean peak for the period 1994/95 to 1998/99) and is used on an occasional basis when other feeding sites along the middle Shannon and Little Brosna callows are flooded. It is of particular importance as it can support the entire Little Brosna flock. For this reason the site is a key part of this flock's winter range and important for its protection.

Dovegrove Callows SPA is of major conservation significance as a feeding site for an internationally important flock of Greenland White-fronted Goose, a species that is listed on Annex I of the E.U. Birds Directive.

Conservation objectives for Dovegrove Callows SPA [004137]

The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. These habitats and species are listed in the Habitats and Birds Directives and Special Areas of Conservation and Special Protection Areas are designated to afford protection to the most vulnerable of them. These two designations are collectively known as the Natura 2000 network.

European and national legislation places a collective obligation on Ireland and its citizens to maintain habitats and species in the Natura 2000 network at favourable conservation condition. The Government and its agencies are responsible for the implementation and enforcement of regulations that will ensure the ecological integrity of these sites.

The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.

Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

Bird Code	Common Name	Scientific Name
A395	Greenland White-fronted Goose	<i>Anser albifrons flavirostris</i>



Citation: NPWS (2018) Conservation objectives for Dovegrove Callows SPA [004137]. Generic Version 6.0. Department of Culture, Heritage and the Gaeltacht.