

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

REFERENCE: DEC 19/15

NAME AND ADDRESS OF APPLICANT: Cora McMahon
14 Fr. Kearns Street
Edenderry
Co. Offaly

ADDRESS FOR CORRESPONDENCE: Cora McMahon
C/o John J Cross
11 An Cois
Allenwood,
Naas, Co. Kildare

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the change of use of a shop to residential use and incorporation of the floor area into existing residential unit at 14 Fr. Kearns Street, Edenderry, Co. Offaly is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: 14 Fr. Kearns Street, Edenderry, Co. Offaly.

WHEREAS a question referred to Offaly County Council on 26th September 2019 has arisen as to whether the change of use of a shop to residential use and incorporation of the floor area into existing residential unit at 14 Fr. Kearns Street, Edenderry, Co. Offaly is or is not development and is or is not exempted development under the Planning and Development Act 2000, (as amended).

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

- (a) Sections 2, 3 & 4 of the Planning and Development Act 2000, as amended.
- (b) Article 10 of the Planning & Development Regulations, 2001, 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 powers conferred on it by Section 5 (2) of the Planning and Development Act 2000, as amended hereby decides that the change of use of a shop to residential use and incorporation of the floor area into existing residential unit at 14 Fr. Kearns Street, Edenderry, 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

14/11/19

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

Planning Report

Section 5 Declaration

File Reference:	<i>Dec 19/15</i>
Question:	<i>Whether the change of use of a shop to residential use and incorporation of the floor area into existing residential unit is or not development and is or is not exempted development</i>
Applicant:	<i>Cora McMahon</i>
Correspondence Address:	<i>John J Cross 11 An Cois Allenwood Co. Kildare</i>
Location:	<i>14 Father Kearns Street, Edenderry</i>
Date Further Information received:	<i>25th October 2019</i>
Date due:	<i>14th November 2019</i>

SECOND REPORT ON FILE

The question has arisen as to whether the change of use of a shop to residential use and incorporation of the floor area into existing residential unit is or not development and is or is not exempted development

The proposed works, as per the Section 5 Application form include: *conversion of vacant shop unit to residential use. The unit will form part of the overall house. Floor area of 24.6 sq m*

FURTHER INFORMATION RESPONSE:

Further information was sought by the Planning Authority on 17th October 2019 and subsequently received by the Planning Authority on 25th October 2019. This report should be read in conjunction with the previous planners report 15th October 2019. The following further information was sought and the response is as follows:

1. Submit detailed scaled drawings at not less than 1:100, which show the following:

- a. Floor plans indicating or outlining the floor area to be converted to residential use;
- b. Front elevation drawings detailing the proposed fenestration arrangement;
- c. A ground floor plan which indicates that the rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting, and;
- d. A ground floor plan which indicates that the dwelling floor areas and storage spaces have minimum floor area requirements and minimum storage space requirements as per the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

Applicants Response: In relation to point number 1, the Applicant has submitted the following;

- Existing and proposed floor plans indicating the proposed floor area to be converted to residential use.
- Proposed front elevation indicating fenestration arrangement
- A proposed ground floor plan indicating that the rooms for use, or intended for use, as habitable rooms will have adequate natural lighting.
- The proposed ground floor plan indicates the dwelling floor areas and storage spaces have minimum floor area requirements and minimum storage space as required under "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities"

Planners Appraisal: The further information received by the Planning Authority in relation to point number 1 has been assessed and it is deemed satisfactory.

2. Please indicate the (approximate) date on when the shop use ceased.

Applicants Response: In relation to point number 2, the Applicant has stated the shop used ceased approximately 20 years ago.

Planners Appraisal: The further information received by the Planning Authority in relation to point number 2 has been assessed and it is deemed satisfactory.

EVALUATION:

Having assessed the Further Information received and the previous planning report on file, it is considered the change of use of a shop to residential use and incorporation of the floor area into existing residential unit is development and is exempted development.

CONCLUSION:

WHEREAS a question has arisen as to whether or not the change of use of a shop to residential use and incorporation of the floor area into existing residential unit with an address at 14 Father Kearns Street, Edenderry is or not development and is or is not exempted development

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

- a) Sections 2, 3 & 4 of the Planning & Development Act 2000, as amended.
- b) Article 10 of the Planning & Development Regulations, 2001, 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 the powers conferred on it by Section 5 (2) of the Planning and Development Act, as amended, hereby decides;

That change of use of a shop to residential use and incorporation of the floor area into existing residential unit is development and is exempted development.

Michael Duffy
Michael Duffy
Assistant Planner
12th November 2019

Carroll Nohie
A/SEP
13/11/2019

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

Section 5 Ref. No: 19/15

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:		
Proposed development:	Change of use from shop to residential use	
Site location:	14 Father Kearns St. Edenderry	
Site size:	Floor Area of Proposed Development:	24.6 sqm (total) (change of use)
Identification of nearby European Site(s):	The Long Derries SAC	
Distance to European Site(s):	4km	
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: X <input type="checkbox"/>
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):		
The reasons for the designation of the European site(s):	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.)	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)

<p><i>Would there be...</i></p> <p>... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).</p>	no
<p>... a reduction in habitat area on a European site?</p>	no
<p>... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the European site?</p>	no
<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>	no
<p>... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?</p>	no
<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>	no

(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 are 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: *Michael Duddy*

Position: Assistant Planner

Date: 12th November 2019

Site Name: The Long Derries, Edenderry SAC
Site Code: 000925

The Long Derries is located approximately 5 km south-east of Edenderry in Co. Offaly and is part of a low esker ridge running from Edenderry to Rathdangan. It consists primarily of glacial gravels interspersed with loam and peat soil. 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):

[6210] Orchid-rich Calcareous Grassland*

The dominant habitat at the Long Derries is dry calcareous grassland. This can be observed towards the north-western end where Carline Thistle (*Carlina vulgaris*), Marjoram (*Origanum vulgare*), Wild Thyme (*Thymus praecox*) and Cowslip (*Primula veris*) grow. An interesting feature is a number of used and unused gravel pits which are host to plants such as Mountain Everlasting (*Antennaria dioica*) and the rare Fine-leaved Sandwort (*Minuartia hybrida*), among others.

In places, invading Hawthorn (*Crataegus monogyna*) forms blocks of scrub interspersed with open areas of calcareous grassland, as can be viewed in the eastern section. The eastern boundary grades into peatland where calcareous runnels are interspersed with miniature peat flushes. Here calcicole plant species are mixed with calcifuge ones such as Heather (*Calluna vulgaris*), Tormentil (*Potentilla erecta*), Lousewort (*Pedicularis sylvatica*) and Devil's-bit Scabious (*Succisa pratensis*).

An important aspect of this site is the presence of the rare, Red Data Book species Blue Fleabane (*Erigeron acer*) and Green-winged Orchid (*Orchis morio*), as well as the legally protected (Flora (Protection) Order, 1999), Basil Thyme (*Acinos arvensis*). A large population of the latter species occurs in the grassland communities, including those in the transition to peatland zone. Blue Fleabane is found in grassland and gravel pits on the site, the latter habitat also supporting Basil Thyme.

The summer birdlife of this area includes Sand Martin, Whinchat, Whitethroat and Cuckoo. Nightjar, a rare species listed in Annex I of the E.U. Birds Directive, breeds on the site. Partridge, an endangered species in Ireland and one listed in the Red Data Book, is known from the site. Badgers have setts along some of the mature hedgerows.

At the western section of this site activities connected with the harvesting of peat occur. The eastern section of the site is grazed by cattle and horses. Grazing is essential for the preservation of the rare orchid, but over-grazing needs to be avoided. Shooting and motorbike scrambling are other activities occurring. Although gravel extraction has helped create habitats for some plant species, this could result in excessive damage if uncontrolled. Dumping of rubbish and old railway tracks is undesirable, as is interference with Badger setts.

The Long Derries is of botanical importance due to the presence of good quality dry, calcareous grassland, an interesting gravel pit flora and the presence of three rare plant species, two of which are legally protected. The presence of an interesting transition habitat from esker to peatland, and a varied bird population, including the rare Nightjar and Partridge, adds to the importance of the site.