

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 19/18

NAME OF APPLICANT: James Moloney & Michelle Murphy

ADDRESS FOR CORRESPONDENCE: Kilbarry,
Fermoy,
Co. Cork,
P61 KV99

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the existing forestry entrance is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Coolcreen, Cadamstown, Birr, Co. Offaly.

WHEREAS a question referred to Offaly County Council on 06th November 2019 has arisen as to whether the existing forestry entrance 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) 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) (ia) of the Planning and Development Act 2000, as amended
- (d) Section 4 (4) of the Planning and Development Act 2000, as amended
- (e) Article 8G of the Planning and 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 existing forestry entrance at Coolcreen, 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

16/12/2019

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.

Planning Report

Section 5 Declaration

File Reference:	<i>Dec 19/18</i>
Question:	<i>Whether the following is development and if so, exempted development: (a) change of use of an existing agricultural entrance to a forest entrance</i>
Applicant:	<i>James Moloney & Michelle Murphy</i>
Correspondence Address:	<i>Kilbarry, Fermoy, Co. Cork P61 KV99</i>
Location:	<i>Coolcreen, Cadamstown, Co. Offaly</i>

SECOND REPORT ON FILE

1. Introduction

The question before the planning authority is whether the modification of an established agricultural access to a forest entrance (5m wide) is considered to be development or development which is exempt development.

2. Further Information

Further information (FI) was sought by the Planning Authority on 2nd December 2019 and subsequently received by the Planning Authority on 6th December 2019. This report should be read in conjunction with the previous planner's report dated 2th December 2019. The following FI was sought and the response is as follows:

- (a) Provide details including a sketch outlining the proposed widening of the existing agricultural entrance.*
- (b) Clarify if the 'forest entrance' is associated with 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.*

Having received the FI request, Mr. Dan McNamara of Deel Forestry called the Planner to discuss on behalf of the current owners James Moloney and Michelle Murphy. During this phoncecall, Mr. McNamara explained that the Section 5 Declaration Form submitted wasn't clear and he confirmed the following:

- The land which the entrance provides access to is currently changing in ownership.
- The entrance is currently used to provide access to an existing forestry plantation.
- No amendments are proposed to existing entrance.

Aerial photographs (source: Council GIS internal system) show this access road and land to the east/south east planted in forestry as far back as 1995.

Taking into consideration the response to the FI request, it is the view of the Planner that question before the Planning Authority should be amended to read:

Whether the existing forestry entrance is development and if so, exempted development?

Planners Appraisal on Items (a) – (b): The further information received by the Planning Authority via post and from discussions with Mr. McNamara in relation to items (a) and (b) have been assessed and it is deemed satisfactory.

3. Evaluation

Having assessed the FI response received and the previous planning report on file, it is considered that the existing entrance which provides access to an existing forestry plantation is development and is exempted development under the provisions of Section 4(1)(ia) of the Planning & Development Act (as amended) and Part 2 Section 8G of the Planning & Development Regulations (as amended).

'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, shall be exempted development'.

4. Conclusion

WHEREAS a question has arisen as to whether:

- The existing forestry entrance is or is not development, and is or is not exempted development at Coolcreen, Cadamstown, Co. Offaly

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

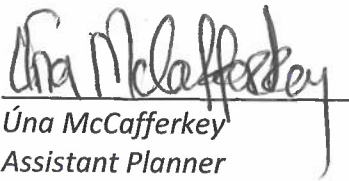
- (a) Sections 2 of the Planning & Development Act 2000, as amended,
- (b) Section 3 of the Planning & Development Act 2000, as amended,
- (c) Section 4(1)(ia) of the Planning & Development Act 2000, as amended,
- (d) Section 4(4) of the Planning & Development Act 2000, as amended,
- (e) Article 8G of the Planning and Development Regulations 2001, as amended

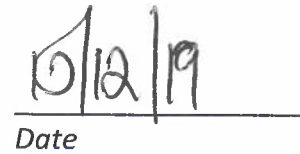
AND WHEREAS Offaly County Council has concluded that –

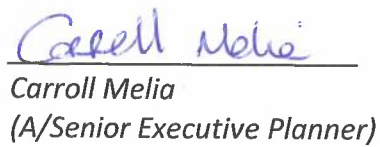
- The proposed work is development and is exempted development.

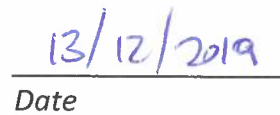
NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) hereby decides that;

- *The existing entrance providing access to the existing forestry plantation is development and is exempted development.*


Úna McCafferkey
Assistant Planner


Date


Carroll Melia
(A/Senior Executive Planner)


Date