

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 2012

NAME OF APPLICANT: MATHEW CONWAY
ADDRESS COOLNAHILEY, TULLAMORE, CO. OFFALY.

ADDRESS FOR CORRESPONDENCE: COOLNAHILEY,
TULLAMORE,
CO. OFFALY.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the proposed shop front, fit new façade to premises which will consist of an old traditional style front at Columcille Street, Tullamore, Co. Offaly R35 DX61, is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: COLUMCILLE STREET, TULLAMORE, CO. OFFALY R35 DX61

WHEREAS a question referred to Offaly County Council on 15th July 2020 has arisen as to whether Columcille Street, Tullamore, Co. Offaly R35 DX61 is or is not 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 and 4 of the Planning and Development Act 2000 (as amended)

AND WHEREAS Offaly County Council has concluded that the installation of a shop front in accordance with plan and particulars received on 15th July 2020 is development;

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 proposed shop front, fit new façade to premises which will consist of an old traditional style front at Columcille Street, Tullamore, Co. Offaly R35 DX61 **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

10/8/2020

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 20-12</i>
Question:	<i>Whether the proposed shop front, new façade to premises which will consist of an old traditional style shop front is or is not development and is or is not exempted development.</i>
Applicant:	<i>Chris Coffee</i>
Correspondence Address:	<i>Matthew Conway Coolnahiley Tullamore</i>
Location:	<i>'Park Avenue 23', Colmcille St., Tullamore</i>

1. Introduction

The question has arisen as to whether the proposed shop front, new façade to premises which will consist of an old traditional style shop front is or is not development and is or is not exempted development at Colmcille St., Tullamore.

2. Site Location & Description

The site is located on Colmcille St., Tullamore. There is an existing two storey terraced structure on site. The ground floor is in retail use. The site is zoned for town centre use in the development plan.



Plate 1: Image of existing shop front

3. Relevant Planning History

TU15567 Permission granted to Matthew Conway for alterations to premises.

4. Legislative Context

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

Section 2 (1) Planning and Development Act 2000 (as amended) states as follows:

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

‘structure’ means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and— (a) where the context so admits, includes the land on, in or under which the structure is situate,

Section 3 (1) Planning and Development Act 2000 (as amended) defines development as:

“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.

Section 4(1) Planning and Development Act 2000 (as amended) defines development as:

4.—(1) The following shall be exempted developments for the purposes of this Act—

(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;

5. Proposal by Applicants

The applicant wishes to ascertain whether a new shop front is or is not development and is or is not exempted development.

6. Evaluation

Question: Is the following works considered as Development?

As the proposed works comprises the construction/erection of a new shop front, it is considered that the works are ‘development’ in accordance with section 3(1) of the Planning and Development Act, 2000, as amended.

Question: Is the following works proposal considered as Exempted Development?

It is considered that the proposed works would 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 and can therefore be considered to be exempted development.

7. Appropriate Assessment Screening

An appropriate assessment screening report was carried out and it attached to this report, which concludes that the proposed development is unlikely to have significant effects on the Charleville Wood SAC.

8. Recommendation

It is recommended that a new shop front 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 installation of a traditional style shop front at a premises known as 'Park Avenue 23', Colmcille Street, Tullamore is or is not development and is or is not exempted development.

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~~AS INDICATED on the plans and particulars received by the Planning Authority on 15th July 2020;~~

AND WHEREAS Matthew Conway requested a declaration on the said question from Offaly County Council;

AND WHEREAS Offaly County Council as the Planning Authority, in considering this declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);

AND WHEREAS Offaly County Council has concluded that the installation of a shop front in accordance with plan and particulars received on 15th July 2020 is development;

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 installation of a traditional style shop front is exempted development.

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.

A. Clarke

Alaine Clarke
Executive Planner

6/8/20

Carroll Melia

Carroll Melia
A/Senior Executive Planner

7/8/2020

**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 App Ref. No. 20/226 DEC 2012

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Shope front		
Site location:	Columcille Street, Tullamore		
Site size:	unknown	Floor Area of Proposed Development:	n/a
Identification of nearby European Site(s):	Charleville Wood SAC		
Distance to European Site(s):	1.5km		
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?	No		
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
Charleville Wood is considered to be one of the very few ancient woodlands remaining in Ireland, with some parts undisturbed for at least 200 years. 'Old Oak woodland is a habitat listed on Annex I of the EU Habitats Directive, while the rare snail species, <i>Vertigomoulin siana</i> , is listed on Annex II of this directive. The wetland areas, with their associated bird populations, the rare insect and Myxomycete species contribute further to the conservation significance of the site			
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.)			
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 91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles * denotes a priority habitat Code Common Name Scientific Name 1016 Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i>			

(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:	
<i>(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain 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>	
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

<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>	<p>No other plans known of in the vicinity of the site. The site is sufficient distance from the European site.</p>
(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	
<p>Justify why it falls into relevant category above:</p>	<p>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.</p>
Name:	Alaine Clarke <i>A. Clarke</i>
Position:	Executive Planner
Date:	<i>6/08/12</i>

SITE SYNOPSIS

SITE NAME: CHARLEVILLE WOOD

SITE CODE: 000571

Charleville Wood is a large Oak woodland surrounded by estate parkland and agricultural grassland located about 3 km south-west of Tullamore. The site, which is underlain by deep glacial deposits, includes a small lake with a wooded island, and a stream runs along the western perimeter. The woodland is considered to be one of very few ancient woodlands remaining in Ireland, with some parts undisturbed for at least 200 years. Some 10% of the woodland has been underplanted with conifers and other exotic trees, but the rest of the area is dominated by Pedunculate Oak (*Quercus robur*). Apart from Oak, there is much Ash (*Fraxinus excelsior*) and scattered Wych Elm (*Ulmus glabra*), while Birch (*Betula spp.*) is a feature of the boggy margins. The shrub layer is composed largely of Hazel (*Corylus avellana*), Hawthorn (*Crataegus monogyna*) and

Blackthorn (*Prunus spinosa*). The ground layer is varied, including damp flushed slopes with Ramsons (*Allium ursinum*) and drier, more open areas with a moss sward composed largely of *Rhytidiadelphus triquetris*. The fungal flora of the woodland is notable for the presence of several rare Myxomycete species, namely *Hemitrichia calyculata*, *Perichaena depressa*, *Amaurochaete atra*, *Collaria arcyronema*, *Stemonitis nigrescens* and *Diderma deplanata*. A number of unusual insects have also been recorded in Charleville Wood, notably *Mycetobia obscura* (Diptera), a species known from only one other site in Ireland. The site is also notable for the presence of a large population of the rare snail species, *Vertigo moulinsiana*.

Extensive swamps of Bulrush (*Typha latifolia*) and Bottle Sedge (*Carex rostrata*) have developed in the lake shallows. The lake is an important wildfowl habitat – it supports populations of Mute and Whooper Swan and a number of duck species, including Teal, Wigeon, Shoveler, Pochard and Tufted Duck. The wooded island at its centre is famed for its long history of non-disturbance. Hazel, Spindle (*Euonymus europaeus*) and Ivy (*Hedera helix*) reach remarkable sizes here.

Charleville Wood is one of the most important ancient woodland sites in Ireland. The woodland has a varied age structure and is relatively intact with both areas of closed canopy and open areas with regenerating saplings present. The understorey and ground layers are also well represented. Old Oak woodland is a habitat listed on Annex I of the EU Habitats Directive, while the rare snail species, *Vertigo moulinsiana*, is listed on Annex II of this directive. The wetland areas, with their associated bird populations, the rare insect and Myxomycete species contribute further to the conservation significance of the site.

6.12.1999