

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 2016

NAME OF APPLICANT: CHARLIE KELLEHER, CHAIRPERSON OF DURROW COMMUNITY & RECREATIONAL GROUP

ADDRESS FOR CORRESPONDENCE: KILDANGAN,  
TULLAMORE.  
CO. OFFALY

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether a community astro pitch (70m x 30m) within the grounds of the GAA Club (with associated internal fencing) and exercise equipment located around the existing walking track (within grounds) at Durrow GAA, Co. Offaly is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Durrow GAA Grounds, Aghancarnan, Durrow, Co.Offaly

WHEREAS a question referred to Offaly County Council on 15/9/2020 as to whether a community astro pitch (70m x 30m) within the grounds of the GAA Club (with associated internal fencing) and exercise equipment located around the existing walking track (within grounds) at Durrow GAA, 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 and 3 of the Planning and Development Act 2000 (as amended);
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended); and;
- (c) Schedule 2, Part 1, Class 33 (c) (exempted Development – Development for amenity or recreational purposes, of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Offaly County Council has concluded that the construction community astro pitch (70m x 30m) within the grounds of the GAA Club (with associated internal fencing) and exercise equipment located around the existing walking track (within grounds) at Durrow GAA Grounds, Aghancarnan, Durrow, Co. Offaly

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 community astro pitch (70m x 30m) within the grounds of the GAA Club (with associated internal fencing) and exercise equipment located around the existing walking track (within grounds) is development and is exempted development at Durrow GAA, Co. Offaly.

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

09/10/2020  
\_\_\_\_\_  
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

<b>File Reference:</b>	<b>Dec 20-16</b>
<b>Question:</b>	<i>Whether a community astro pitch (70m x 30m) within the grounds of the GAA club (with associated internal fencing) and exercise equipment located around the existing walking track (within grounds) is or is not exempted development and is or is not exempted development.</i>
<b>Applicant:</b>	Charlie Kelleher, Chairperson of Durrow Community & Recreational Group
<b>Correspondence Address:</b>	Kildangan, Tullamore. Co. Offaly
<b>Location:</b>	Durrow GAA

#### 1. Introduction

The question has arisen as to whether the proposed development (as listed above) is development, and if so, is it exempted development under the Planning and Development Regulations 2001 (as amended).

#### 2. Background

Following refusal for permission under planning reg. ref. 19/481 the applicant has decided to seek a Section 5 declaration in respect of some works at the GAA grounds.

#### 3. Site Location and Description

The site is situated in the countryside of county Offaly. There is an existing GAA facility on site, comprising club house, large pitch, smaller pitch, small viewing stand, walking track and parking.

The site is accessed off a local road, which is 100m from the junction with the N52. The site bounds the N52 along the southern boundary.



Plate 1: View of existing pitch to be replaced

#### 4. Site History

19/481: Durrow GAA were refused permission for (a) new single storey gym sports hall and toilets; (b) permission for new all-weather playing pitch and associated fencing with flood lighting; (c) flood lights to the existing pitch and walkway and (d) permission for new relocated entrance also outdoor gym equipment and all associated site works, for the following reason:

1. The proposed development would be premature pending the determination of the road authority of the route alignment / corridor for the N52 Tullamore to Kilbeggan Link Scheme.

17/73: Durrow GAA Club were granted permission to retain single storey extension to side of dressing rooms. Permission to construct a new gym/sports hall with first floor games room/viewing area and toilets, to relocate existing entrance, alterations to front boundary/car park and for all associated site development works.

00/70: Durrow GAA committee granted new stand & extension to dressing rooms.

#### 5. 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 - Planning and Development Act 2000 (as amended)**

**Section 2 (1)** 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.*

**Section 3 (1)** 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.*

##### **Regulatory Provisions - Planning and Development Regulations 2001 (as amended)**

**Article 6(1)** states, *inter alia*, that:

*"Subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in Column 2 of the said Part 1 opposite the mention of that class in the said Column 1".*

Article 9 sets out restrictions on exemption to which Article 6 relates. There are no specific relevant restrictions on exemption which would relate to the proposal which is the subject of this referral.

## Schedule 2, Part 1 - Class 33

*'Development for amenity or recreational purposes: Development consisting of the laying out and use of land-*

*(c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.'*

There are no conditions or limitations to this exemption.

### 6. Proposal by Applicants

It is proposed to replace an existing grass pitch with an astro pitch with associated fencing and to erect exercise equipment along the walking track.

### 7. Evaluation

#### Question: Is the following works considered as Development?

It is considered that the proposal constitutes 'development' as defined by Section 3 of the Act.

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

The legislation provides for exempted development for amenity and recreational purposes under Article 6 and Schedule 2, Part 1, Class 33 (c) of the Regulations (quoted above).

I consider the proposed development complies with the provisions of Class 33 (c) of Part 1, Schedule 2 as the proposed development is for a replacement pitch and exercise equipment for sports use. Therefore, it is considered to constitute exempted development in accordance with Article 6 of the Regulations, where no charge is made for admission of the public to the land.

Finally, in terms of Article 9, which sets out restrictions on exemptions, as already stated in the previous section of my report, none of the restrictions set out in this Article of the Regulations would be applicable to the proposed works to be undertaken. Specifically, in relation to Article 9(viib) which relates to appropriate assessment, no appropriate assessment issues arise in this instance as the nearest Natura 2000 sites are c.4 kilometres to the south west in Tullamore and there are no hydrological or ecological connection between the subject site and the Natura 2000 sites in question (see screening report attached).

### 7. Recommendation

It is recommended that the construction of a walking track around the existing and new GAA pitches and grounds at Durrow GAA Club **does constitute development** defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and **is exempted development** as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

**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 a community astro pitch (70m x 30m) within the grounds of the GAA club (with associated internal fencing) and exercise equipment located around the existing walking track (within grounds) is or is not exempted development and is or is not exempted development at Durrow GAA Grounds, Durrow, Co. Offaly.

**AND WHEREAS** Offaly County Council, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard particularly to

- (a) Sections 2 and 3 of the Planning and Development Act 2000 (as amended);
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended); and;
- (c) Schedule 2, Part 1, Class 33 (c) (exempted Development – Development for amenity or recreational purposes, of the Planning and Development Regulations 2001 (as amended).

**AND WHEREAS** Offaly County Council has concluded that the construction community astro pitch (70m x 30m) within the grounds of the GAA club (with associated internal fencing) and exercise equipment located around the existing walking track (within grounds) at Durrow GAA Grounds, Durrow, Co. Offaly does constitute 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:

The construction of a community astro pitch (70m x 30m) within the grounds of the GAA club (with associated internal fencing) and exercise equipment located around the existing walking track (within grounds) constitutes development that 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

*6.10.20*

*Date*

*Carroll Melia*

*Carroll Melia*  
(A/Senior Executive Planner)

*8/10/20*

*Date*

## 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**

**DEC 20/16**

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Astro pitch and exercise equipment		
Site location:	DURROW DEMENSE, DURROW, TULLAMORE, CO. OFFALY		
Site Area	Not specified	Floor Area of Proposed Development:	<b>2100sqm</b>
Identification of nearby European Site(s):	2000 site(s): SAC 000571– Charleville Wood SAC		
Distance to European Site(s):	<b>4km</b>		
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:	<b>None</b>		
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:	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 Natura 2000 site synopses and, if applicable, a Conservation Management Plan; all available on <a href="http://www.npws.ie">www.npws.ie</a> ) <b>(ATTACH INFO.)</b>	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 S. Vertigo moulinsiana

**(C) NPWS ADVICE:**

Advice received from NPWS over phone:	None received
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**(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)*

<b>Would there be...</b> ... 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 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 NIS 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 European sites from the proposed development.

Name:

*A. Cleese*

Position:

Exec. Planner

Date:

*6.10.20*