

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 21/16

NAME OF APPLICANT: THE COMMITTEE OF KILLAVILLA COMMUNITY CENTRE

ADDRESS KILLAVILLA COMMUNITY CENTRE,
KILLAVILLA,
ROSCREA,
CO. OFFALY

ADDRESS FOR CORRESPONDENCE: C/O KEVIN DOOLEY,
BALLYDUFF,
ROSCREA,
CO. OFFALY

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the replacement of existing damaged asphalt flat roof/flat roof covering with new approved flat roof covering in accordance with current building standards is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: KILLAVILLA COMMUNITY CENTRE, KILLAVILLA, ROSCREA,
CO. OFFALY

WHEREAS a question referred to Offaly County Council on 8th June 2021 as to whether the replacement of existing damaged asphalt flat roof/flat roof covering with new approved flat roof covering in accordance with current building standards at Killavilla Community Centre, Killavilla, Roscrea, 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 and 4 of the Planning and Development Act 2000 (as amended);
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Offaly County Council has concluded that the replacement of existing damaged asphalt flat roof/flat roof covering with new approved flat roof covering in accordance with current building standards at Killavilla Community Centre, Killavilla, Roscrea, Co. Offaly does constitute development and is exempted development.

US NOW THEREFORE Offaly County Council, in exercise of powers conferred on it by Section 5 (2)(a) of the Planning and Development Act 2000, as amended hereby decides that that;

The replacement of existing damaged asphalt flat roof/flat roof covering with new approved flat roof covering in accordance with current building standards is development and is exempted development at Killavilla Community Centre, Killavilla, Roscrea, 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

Date

05/07/2021

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:	Dec 21-16
Question:	<i>Whether the following is development and exempted development: (a) Replacement of existing damaged asphalt flat roof/flat roof covering with new approved flat roof covering in accordance with current building standards</i>
Applicant:	<i>The Committee of Killavilla Community Centre</i>
Correspondence Address:	<i>c/o Kevin Dooley, Ballyduff, Roscrea, Co. Offaly</i>
Location:	<i>Killavilla Community Centre, Killavilla, Roscrea, Co. Offaly.</i>

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 Schedule 2, Part 1 Class 14(f) of the Planning and Development Regulations 2001 (as amended).

2. Background

The subject site is located in the open countryside and is currently occupied by the Killavilla Community Centre.

3. Site History

- 18/344 - The Committee of Killavilla Community Centre sought permission for a proposed 4G all-weather playing pitch, ball wall, pitch lighting and associated site works – Granted.
- 12/297 - Killavilla Community Centre sought permission construction of a children's playground with play equipment, and seating area, fencing and all associated site works - Withdrawn.
- 11/117 – Killavilla Community Centre sought permission for construction of a 64sqm extension to the rear of existing community centre to provide the following: additional hall & stage area, 2 No. changing rooms and an additional toilet, new proprietary waste water treatment system and percolation area, along with all associated site works and site landscaping - Granted.
- 10/250 – The committee of Killavilla community centre sought permission similar to the current proposal - Withdrawn.
- 98/1 – Extension to Killavilla community centre and development of car parking area - Granted.

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:

“alteration” includes— (a) plastering or painting or the removal of plaster or stucco, or (b) the replacement of a door, window or roof, that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

“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) 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 - Exempted Development, Planning and Development Act 2000 (as amended)

Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of this Act including:

(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 and which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of other structures or neighbouring structures.

Section 4 (2) (a) - The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that -

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development.

Regulatory Provisions

Article 6 of the Planning and Development Regulations 2001 (as amended) 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”.

5. Proposal by Applicants

The Applicant wishes to ascertain whether the following proposed works to the existing Killavilla Community Centre are deemed to be development and if so, is it exempted development:

- (a) Replacement of existing damaged asphalt flat roof/flat roof covering with new approved flat roof covering in accordance with current building standards.

6. Evaluation

Question: Is the following works considered as Development?

As the proposed works comprises of alterations and improvements to an existing structure, 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?

These works are deemed as exempted development in accordance with Section 4 (1) (h) of the 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.

The proposed works are being carried out for maintenance/improvement purposes. The Planning Authority deems the works to be exempted development.

7. Recommendation

The Planning Authority deems the works to be development and exempted development.



Úna McCafferkey
Assistant Planner

28th June 2021
Date



Carroll Melia
(A/Senior Executive Planner)

5th July 2021
Date

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 or not the replacement of existing damaged asphalt flat roof/flat roof covering with new approved flat roof covering in accordance with current building standards is or is not development and is or is not exempted development at Killavilla Community Centre, Killavilla, Roscrea, Co. Offaly.

AND WHEREAS *The Committee of Killavilla Community Centre* requested a declaration on the said question from Offaly County Council;

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, 3 and 4 of the Planning and Development Act 2000 (as amended);
and,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Offaly County Council has concluded that the replacement of existing damaged asphalt flat roof/flat roof covering with new approved flat roof covering in accordance with current building standards at Killavilla Community Centre, Killavilla, Roscrea, 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 replacement of existing damaged asphalt flat roof/flat roof covering with new approved flat roof covering in accordance with current building standards is **development** and is **exempted development** at Killavilla Community Centre, Killavilla, Roscrea, Co. Offaly.

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.

APPENDIX A

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 Application Ref. No: DEC 21-16

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Replacement of existing damaged asphalt flat roof/flat roof covering with new approved flat roof covering in accordance with current building standards		
Site location:	Killavilla Community Centre, Killavilla, Roscrea, Co. Offaly		
Site size:	Not provided	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Slieve Bloom Mountain SPA – 1.34km Slieve Bloom Mountains SAC – 4.69km		
Distance to European Site(s):	As above – all as crow flies		
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: <input checked="" type="checkbox"/>	
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
<p>Slieve Bloom Mountains SPA - Features of interest include:</p> <ul style="list-style-type: none"> • Hen Harrier (Circus cyaneus) [A082] <p>Slieve Bloom Mountains SAC - Features of interest include:</p> <ul style="list-style-type: none"> • Northern Atlantic wet heaths with Erica tetralix [4010] • Blanket bogs (* if active bog) [7130] • Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] 			
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.)			
<p>Site Name: Slieve Bloom Mountains SPA, Site Code: 004160 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004160.pdf</p> <p>Site Name: Slieve Bloom Mountains SAC, Site Code: 000412 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000412.pdf</p>			
(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:	Úna McCafferkey 
Position:	Assistant Planner
Date:	28 th June 2021