

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

REFERENCE: DEC 22/22

NAME OF APPLICANT: Kilcormac Development Association

ADDRESS: St Cormac's Park,
Kilcormac,
Co. Offaly

ADDRESS FOR CORRESPONDENCE: C/o Caelan Bristow
Dewett House,
Main Street,
Cloughjordan,
Co. Tipperary

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not the erection of 10 no. information panels mounted on steel support stands is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: St Cormac's Park, Kilcormac, Co. Offaly

WHEREAS a question referred to Offaly County Council on 05/10/2022 as to whether or not the erection of 10 no. information panels mounted on steel support stands at St Cormac's Park, Kilcormac, 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(1) h of the Planning & Development Act 2000, as amended;

AND WHEREAS Offaly County Council has concluded that the erection of 10 no. information panels mounted on steel support stands at St Cormac's Park, Kilcormac, Co. Offaly **is development and is exempted 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 erection of 10 no. information panels mounted on steel support stands **is development and is exempted development** at St Cormac's Park, Kilcormac, 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 11/11/2022

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. 22/22</i>
Question:	<i>Whether the erection of 10 no. information panels mounted on steel support stands is or is not development and is or is not exempted development.</i>
Applicant:	<i>Kilcormac Development Association</i>
Correspondence Address:	<i>c/o Caelan Bristow, Main Street, Cloughjordan, Co. Tipperary</i>
Location:	<i>St. Cormac's Park, Kilcormac, Co. Offaly.</i>

1. Introduction

The question has arisen as to whether the erection of 10 no. information panels mounted on steel support stands at St. Cormac's Park is or is not development and is or is not exempted development.

2. Background / Site History

The subject site is located within Kilcormac Town Boundary and is zoned as Existing Residential under the current Offaly County Development Plan 2021 – 2027 (OCDP). The subject site is described in the Kilcormac Town Plan (Volume 2 of the OCDP) as a "garden city" style housing development built by Bord na Móna in 1954, St. Cormac's Park, and other more recent housing estates to the south and north-east, which provide some depth to the town.



Photo 1: Subject Site

The housing estate was designed by renowned architect Frank Gibney. The following is an extract taken from the Bord na Móna Living History website:

[Kilcormac, Co.Offaly](#)

This scheme of 105 houses is probably the best one to illustrate Gibney's approach. Its plan form is based on three arcs of a gigantic circle pierced by a central axis. The buildings are disposed around the spaces to enclose them and the spaces themselves are of the most generous nature. The buildings are all provided in terrace form to create a sense of enclosure

but are interrupted by feature houses and rear access lane entrances through arched feature buildings. Though it might be argued that the density of the scheme is wasteful, I believe that further houses were to be built at the rear of this site. The plans also contain a proposal for a rather attractive shrine on the central axis, but this wasn't proceeded with. Though located on the edge of Kilcormac, the plan form of the development pays no heed to the village but like all of Gibney's schemes, a very strong sense of internal identity has been created. Again, like all the schemes I have examined it remains in an excellent state of repair and maintenance which is a credit to the community.

<https://www.bordnamonalivinghistory.ie/article-detail/urbanity-and-rurality-the-bord-na-mona-villages-of-frank-gibney/>

3. 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.

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

"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

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 the structure 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.*

4. Proposal by Applicants

The Applicants seek to erect 10 no. information panels throughout St. Cormac's Estate which will provide information on the following:

1. Introduction;
2. Planning of St. Cormac's Park;
3. Working the Boord Bog;
4. Ritual;
5. Children of St. Cormac's Park;
6. Community activities;
7. Names of Original residents;
8. Relationships with the town;
9. Frank Gibney; and,
10. Typical house.

The stands will have a maximum height of 1.145m and the panel itself will be 300mm x 400mm.

The Area Planner notes that no letter of consent from the Residents Association of St. Cormac's Park has been provided however this is not required for the Planning Authority to issue a decision.

5. Appropriate Assessment Screening

A screening exercise for an appropriate assessment has been carried out and it has been deemed that the development is unlikely to have significant effects on any European sites. Please see attached report.

Other than the European sites addressed in the AA no other AA is potentially within the zone of influence of the project.

6. Environmental Impact Assessment Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001- 20 (as amended) and therefore is not subject to EIA requirements.

7. Evaluation

Question: Is the following works considered as Development?

Yes.

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

Having regard to the proposed works and ^{Section} Article 4(1)(h), it is the view of the Planning Authority that the erection of the information panels will not materially affect the appearance of the existing residential estate and its associated green areas. It is therefore concluded that the proposed structures are exempted development.

8. Conclusion

It is recommended that the development as described in the application 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 whether~~ the erection of 10 no. information panels mounted on steel support stands at St. Cormac's Park, Kilcormac, Co. Offaly is or is not development and is or is not exempted development.

AS INDICATED on the particulars received by the Planning Authority on 5th October 2022, is development and is or is not exempted development,

AND WHEREAS Kilcormac Development Association c/o Caelan Bristow, Main Street, Cloughjordan, Co. Tipperary requested a declaration on the said question from Offaly County Council;

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

- (a) Sections 2, 3 and 4(1) h of the Planning & Development Act 2000, as amended;

AND WHEREAS Offaly County Council has concluded that the erection of 10 no. information panels mounted on steel support stands at St. Cormac's Park, Kilcormac is development and is exempted 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 erection of 10 no. information panels mounted on steel support stands at St. Cormac's Park, Kilcormac, Co. Offaly is **development and 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 Pleanala within 4 weeks of the issuing of the decision.



Una McCafferkey
Executive Planner

1st November 2022

Date



Ed Kelly
(A/Senior Executive Planner)

Date 1/11/2022

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 22-22

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the erection of 10 no. information panels mounted on steel support stands is or is not development and is or is not exempted development.		
Site location:	St. Cormac's Park, Kilcormac, Co. Offaly.		
Site size:	Not provided	Floor Area of Proposed Development:	Not provided.
Identification of nearby European Site(s):	Clonaslee Eskers and Derry Bog SAC – 6.88km Slieve Bloom Mountains SPA – 9.87km Slieve Bloom Mountains SAC – 7.49km		
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):			
Clonaslee Eskers and Derry Bog SAC - Features of interest include: <ul style="list-style-type: none"> • Alkaline fens [7230] • Vertigo geyeri (Geyer's Whorl Snail) [1013] 			
Slieve Bloom Mountains SAC - Features of interest include: <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] 			
Slieve Bloom Mountains SPA - Features of interest include: <ul style="list-style-type: none"> • Hen Harrier (Circus cyaneus) [A082] 			
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.)			
SITE NAME: SLIEVE BLOOM MOUNTAINS SPA, SITE CODE: 004160 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004160.pdf SITE NAME: CLONASLEE ESKERS AND DERRY BOG SAC, SITE CODE: 000859 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000859.pdf SITE NAME: SLIEVE BLOOM MOUNTAINS SAC, SITE CODE: 000412 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000412.pdf			

(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.
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:	Executive Planner
Date:	1 st November 2022