

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 22/05

NAME OF APPLICANT: John McNally

ADDRESS FOR CORRESPONDENCE: John McNally
Ballycrystal,
Geashill,
Co. Offaly

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not the removal of a diseased crop of ash and the replacement with a mixed high forest consisting of 85% Norway Spruce and 15% additional broadleaves is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Ballycrystal, Geashill, Co. Offaly

WHEREAS a question referred to Offaly County Council on 09/03/2022 has arisen as to whether or not the removal of a diseased crop of ash and the replacement with a mixed high forest consisting of 85% Norway Spruce and 15% additional broadleaves at Ballycrystal, Geashill, 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-

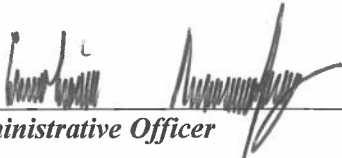
- (a) Article 6(3) of the Planning and Development Regulations 2001, as amended.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Section 4 of the Planning & Development Act 2000, as amended.
- (d) Schedule 2, Part 3, Class 16 of the Planning and Development Regulations 2001, 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 removal of a diseased crop of ash and the replacement with a mixed high forest consisting of 85% Norway Spruce and 15% additional broadleaves at Ballycrystal, Geashill **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

23/06/2022

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:	Dec 22/05
Question:	Whether or not the removal of a diseased crop of ash and the replacement with a mixed high forest consisting of 85% Norway Spruce and 15% additional broadleaves is or is not development and is or is not excepted development
Applicant:	John McNally
Location:	Ballycrystal, Geashill Co. Offaly

SECOND REPORT ON FILE

1. Introduction

The question has arisen as to whether or not the removal of a diseased crop of ash and the replacement with a mixed high forest consisting of 85% Norway Spruce and 15% additional broadleaves is or is not development and is or is not excepted development.

1. Review of Further Information

Further information was sought by the Planning Authority on 5th April 2022 and subsequently received by the Planning Authority on 3rd June 2022. This report should be read in conjunction with the previous planner's report dated 4th April 2022. The following Further Information was sought and the response is as follows:

1. According to National Monuments Services (www.archaeology.ie) the site in question contains a National Monument. In order for the Planning Authority to access the Section 5 Declaration, the Applicant is requested to clarify in relation to the removal of a diseased crop of ash and the replacement with a mixed high forest, if consent was granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended.

Applicants Response: The Applicant has submitted information which indicates the Archaeological Forest Management Plan at Ballycrystal has been agreed between the Forest Service Inspectorate and the National Monuments Service.

Planners Appraisal: The further information received in relation to item 1 was assessed by the Planning Authority and are satisfied with the response

2. The Applicant is requested to clarify the overall area and specific location of the forestry to be replaced on the subject site.

Applicants Response: The Applicant has submitted a map indicating the total area to be replaced is 7.97ha (8.53-0.56).

Planners Appraisal: The further information received in relation to item 2 was assessed by the Planning Authority and are satisfied with the response

APPROPRIATE ASSESSMENT:

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

CONCLUSION:

Having assessed the Further Information received and the previous planning report on file, it is considered the proposed the removal of a diseased crop of ash and the replacement with a mixed high forest consisting of 85% Norway Spruce and 15% additional broadleaves 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 or not the removal of a diseased crop of ash and the replacement with a mixed high forest consisting of 85% Norway Spruce and 15% additional broadleaves is or is not development and is or is not excepted development

At Ballycrystal, Geashill Co. Offaly

AND WHEREAS John McNally 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) Article 6(3) of the Planning and Development Regulations 2001, as amended.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Section 4 of the Planning & Development Act 2000, as amended.
- (d) Schedule 2, Part 3, Class 16 of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that –

- The works are considered 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 removal of a diseased crop of ash and the replacement with a mixed high forest consisting of 85% Norway Spruce and 15% additional broadleaves is **development and is exempted development.**

Please note that any person issued with a declaration under section 5 (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.

Michael Duffy

Michael Duffy

Assistant Planner

22nd June 2022

Carroll Melia

Carroll Melia

Acting Senior Executive Planner

23rd June 2022

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:

Offaly County Council

Planning Application Ref. No.:

DEC/22/5

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:

Proposed development:	Whether or not the removal of a diseased crop of ash and the replacement with a mixed high forest consisting of 85% Norway Spruce and 15% additional broadleaves is or is not development and is or is not excepted development		
Site location:	Ballycrystal, Geashill Co. Offaly		
Site size:	9.15ha	Floor Area of Proposed Development:	N/A
Identification of nearby <i>European Site(s)</i> :	Barrow and river Nore SAC		
Distance to <i>European Site(s)</i> :	9.09KM		
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 <i>European site</i> :	None		
Is the application accompanied by an EIAR?	No		

(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):

The reasons for the designation of the <i>European site</i> :	
<p>The site is a SAC selected for alluvial wet woodlands and petrifying springs, priority habitats on Annex I of the E.U. Habitats Directive. The site is also selected as a candidate SAC for old oak woodlands, floating river vegetation, estuary, tidal mudflats, <i>Salicornia</i> mudflats, Atlantic salt meadows, Mediterranean salt meadows, dry heath and eutrophic tall herbs, all habitats listed on Annex I of the E.U. Habitats Directive. The site is also selected for the following species listed on Annex II of the same directive - Sea Lamprey, River Lamprey, Brook Lamprey, Freshwater Pearl Mussel, Nore Freshwater Pearl Mussel, Crayfish, Twaite Shad, Atlantic Salmon, Otter, Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i> and the Killarney Fern.</p>	
<p>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 <i>European site</i> synopses and, if applicable, a</p>	

Conservation Management Plan; all available on www.npws.ie (ATTACH INFO.)

1016 Desmoulin's whorl snail *Vertigo moulinsiana*
 1029 Freshwater pearl mussel *Margaritifera margaritifera*
 1092 White-clawed crayfish *Austropotamobius pallipes*
 1095 Sea lamprey *Petromyzon marinus*
 1096 Brook lamprey *Lampetra planeri*
 1099 River lamprey *Lampetra fluviatilis*
 1103 Twaite shad *Alosa fallax*
 1106 Atlantic salmon (*Salmo salar*) (only in fresh water) 1130 Estuaries
 1140 Mudflats and sandflats not covered by seawater at low tide
 1310 Salicornia and other annuals colonizing mud and sand
 1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)
 1355 Otter *Lutra lutra* 1410 Mediterranean salt meadows (*Juncetalia maritimi*)
 1421 Killarney fern *Trichomanes speciosum*
 1990 Nore freshwater pearl mussel *Margaritifera durrovensis*
 3260 Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
 4030 European dry heaths
 6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
 7220 * Petrifying springs with tufa formation (*Cratoneurion*)
 91A0 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
 91E0 * Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)
https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002162.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:

(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).

Given the location the limited nature and size of the development applied for and the characteristics of *European* sites in the vicinity it is considered that 100 metres should be used as a potential zone of impact of the project in accordance with section 3.2.3 of the appropriate assessment guidelines. There are no *European* sites within 100 metres of the development applied for and therefore no significant effects on any *European* sites either alone or in combination with other plans and projects.

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 <i>European</i> site?	There will be no reduction in the habitat area.
... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the <i>European</i> 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 <i>European</i> 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 <i>European</i> site.
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the <i>European</i> site?	Not likely to have an adverse impact due to its location, scale and characteristics.
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 <i>European</i> 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 <i>European</i> site.

(E) SCREENING CONCLUSION:

Screening can result in:

1	<i>AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.</i>
2	<i>No potential for significant effects / AA is not required.</i>
3	<i>Significant effects are certain, likely or uncertain. (In this situation seek a Natura Impact Statement from the applicant, or reject the project. Reject if too potentially damaging / inappropriate.</i>
	<i>Conclusion:2</i>
	Justify why it falls into relevant category above: <i>Given the location and the nature and size of the development applied for and the characteristics of <i>European</i> sites in the vicinity and the appropriate assessment guidelines it is considered that the development will be unlikely to have significant effects on any <i>European</i> sites.</i>

Signed:	Michael Duffy	Date:	22 nd June 2022
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