

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 22/6

NAME OF APPLICANT:

Board of Management,
St Cronan's National School

ADDRESS:

St Cronan's National School,
Gortarevan, Lusmagh, Banagher, Co. Offaly R42 KC99

ADDRESS FOR CORRESPONDENCE:

C/o Ms Margaret Barton (Chairperson)
St Cronan's National School,
Gortarevan,
Lusmagh,
Banagher,
Co. Offaly
R42 KC99

NATURE OF APPLICATION:

Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the change of use of a room within the building (St. Cronan's National School – general purpose room) to a playschool / before & after school childcare facility is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT:

St Cronan's National School, Gortarevan, Lusmagh, Banagher, Co. Offaly,
R42 KC99

WHEREAS a question referred to Offaly County Council on 14/03/2022 as to whether the change of use of a room within the building (St. Cronan's National School – general purpose room) to a playschool / before & after school childcare facility at St Cronan's National School, Gortarevan, Lusmagh, Banagher, Co. Offaly, R42 KC99 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-

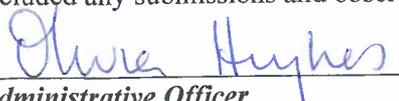
- (a) Sections 2(1), 3 (1) & 4 (1) and (2) of the Planning and Development Act 2000, as amended.
- (b) Schedule 2, Part 4, Article 10; Class 8 and Class 9 – Exempted Development - Classes of Use of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that –

The change of use of a general purpose room within the St Cronan's National School to a childcare facility (playschool and before/after school) at St Cronan's National School, Gortarevan, Lusmagh, Banagher, Co. Offaly, R42 KC99 as indicated on the documentation submitted by the Applicant on the 14th March 2022 is development and is not 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 change of use of a general purpose room within the St Cronan's National School to a childcare facility (playschool and before/after school) at St Cronan's National School, Gortarevan, Lusmagh, Banagher, Co. Offaly, R42 KC99 is considered development and is not 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

Date

8/4/2022

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 22-06</i>
Question:	<i>Whether the change of use of a room within the building (St. Cronan's National School – general purpose room) to a playschool / before & after school childcare facility is or is not development and is or is not exempted development.</i>
Applicant:	<i>Ms Margaret Barton (Chairperson)</i>
Correspondence Address:	<i>c/o Board of Management, St Cronan's National School, Gortarevan, Lusmagh, Banagher, Co. Offaly R42 KC99</i>
Location:	<i>St Cronan's National School</i>

1. Introduction

The question has arisen as to whether the change of use of a general purpose room within the St Cronan's National School to a childcare facility (playschool and before/after school) is or is not development and is or is not exempted development.

2. Background

The subject site is located within the Lusmagh Sráid on lands which are not zoned under the Offaly County Development Plan 2021 - 2027. The site is occupied by the St. Cronan's National School.

3. Site History

The following planning applications have been made on the subject site:

- 10/151: The Board of Management St. Cronan's National School sought permission for the development which will consist of construction of a porch to the front elevation and a detached store/changing rooms to the rear of the school with all associated site works – **Granted.**
- 05/926: St Cronan's National School sought permission for removing of existing temporary accommodation, build additional classrooms, general purpose room and resource rooms, make alterations to existing classrooms with all associated works – **Granted.**
- 02/836: St. Cronan's National School sought permission for a steel framed portable building – **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 - Planning and Development Act 2000 (as amended)

Section 2 (1) 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) 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

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 - Planning and Development Regulations 2001 (as amended)

Article 10 (1) - Changes of Use states:

'Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act'.

Part 4, Article 10: Exempted Development – Classes of Use includes the following:

CLASS 8: Use for the provision of:

- (a) *as a health centre or clinic or for the provision of any medical or health services (but not the use of the house of a consultant or practitioner, or any building attached to the house or within the curtilage thereof, for that purpose)*
- (b) *as a crèche*
- (c) *as a day nursery*
- (d) *as a day centre*

CLASS 9: Use—

- (a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose),
- (b) as a hospital or nursing home,
- (c) as a residential school, residential college or residential training centre

Planner's note: the existing St. Cronan's National School is not a residential school.

5. Proposal by Applicants

The Applicant wishes to ascertain whether the change of use of a general purpose room within the existing national school building (St. Cronan's) to a childcare facility (playschool and before/after school) is or is not development and is or is not exempted development.

The Applicants confirm that no new building works or any structural changes to the existing building will be required. They note that existing toilets, etc. will be used for the facility.

6. Evaluation

Having reviewed the submitted information and the relevant planning policy, the Planning Authority concludes the following:

a) "Is or is not Development"

In this instance, the proposal involved the material change of use of a section of the existing national school to a child care facility (preschool and before/after school facility) would involve "works" within the meaning of Section 3 of the Act. Such works constitute "development" within the meaning of the Act.

b) "Is or is not Exempted Development"

The Applicant advises that a before and after school facility is proposed. Given the nature of the care which such facilities provide, this would operate outside of the usual school hours for a national school and result in additional impacts (including traffic generated) and must be considered in further detail. Therefore, it is the view of the Planning Authority that the change of use from a national school to a childcare facility (preschool and before/after school facility) does constitute a material change of use and therefore does not constitute exempted development under the above mentioned Act and Regulations.

7. Conclusion

It is recommended that the change of use of a general purpose room within the St Cronan's National School to a childcare facility (playschool and before/after school) **does constitute development** defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and **is not 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:

The change of use of a general purpose room within the St Cronan's National School to a childcare facility (playschool and before/after school) is or is not development and is or is not exempted development under the Planning and Development Act 2000 (as amended).

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

- (a) Sections 2(1), 3 (1) & 4 (1) and (2) of the Planning and Development Act 2000, as amended.
- (b) Schedule 2, Part 4, Article 10; Class 8 and Class 9 – Exempted Development - Classes of Use of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that –

The change of use of a general purpose room within the St Cronan's National School to a childcare facility (playschool and before/after school) as indicated on the documentation submitted by the Applicant on the 14th March 2022 is development and is not 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 change of use of a general purpose room within the St Cronan's National School to a childcare facility (playschool and before/after school) is considered **development and is not exempted development.**



Una McCafferkey
Executive Planner

7th April 2022

Date



Carroll Melia
(A/Senior Executive Planner)

7th April 2022

Date

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 22/06

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the change of use of a room within the building (St. Cronan's National School – general purpose room) to a playschool / before & after school childcare facility is or is not development and is or is not exempted development.		
Site location:	St Cronan's National School, Gortarevan, Luskagh.		
Site size:	Not specified	Floor Area of Proposed Development:	Not specified
Identification of nearby European Site(s):	Middle Shannon Callows SPA – c.0.9km River Shannon Callows SAC – c.0.9km River Little Brosna Callows SPA – c.2.26km All Saints Bog SPA – c.2.27km All Saints Bog and Esker SAC – c.2.35km		
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>Middle Shannon Callows SPA - Features of interest include:</p> <ul style="list-style-type: none"> Whooper Swan (<i>Cygnus cygnus</i>) [A038] Wigeon (<i>Anas penelope</i>) [A050] Corncrake (<i>Crex crex</i>) [A122] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Lapwing (<i>Vanellus vanellus</i>) [A142] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999] <p>River Shannon Callows SAC- Features of interest include:</p> <ul style="list-style-type: none"> Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] Lowland hay meadows (<i>Alopecurus pratensis</i>, <i>Sanguisorba officinalis</i>) [6510] Limestone pavements [8240] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0] Lutra lutra (Otter) [1355] <p>River Little Brosna Callows SPA – Features of interest include:</p> <ul style="list-style-type: none"> Whooper Swan (<i>Cygnus cygnus</i>) [A038] 		

- Wigeon (*Anas penelope*) [A050]
- Teal (*Anas crecca*) [A052]
- Pintail (*Anas acuta*) [A054]
- Shoveler (*Anas clypeata*) [A056]
- Golden Plover (*Pluvialis apricaria*) [A140]
- Lapwing (*Vanellus vanellus*) [A142]
- Black-tailed Godwit (*Limosa limosa*) [A156]
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
- Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]
- Wetland and Waterbirds [A999]

All Saints Bog SPA– Features of interest include:

- Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]

All Saints Bog and Esker SAC– Features of interest include:

- Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometalia*) (* important orchid sites) [6210]
- Active raised bogs [7110]
- Degraded raised bogs still capable of natural regeneration [7120]
- Depressions on peat substrates of the *Rhynchosporion* [7150]
- Bog woodland [91D0]

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.)

PLEASE SEE SITE SYNOPSIS and CONSERVATION OBJECTIVES for each site at: <https://www.npws.ie/protected-sites>

(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

<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:	
<p>1.</p>	<p><i>AA is not required</i> because the project is directly connected with / necessary to the nature conservation management of the site.</p>
<p>2.</p>	<p><i>No potential for significant effects / AA is not required.</i></p>
<p>3.</p>	<p><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.</p>
<p>Therefore, does the project fall into category 1, 2 or 3 above?</p>	<p>Category 2</p>
<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>
<p>Name:</p>	<p>Úna McCafferkey </p>
<p>Position:</p>	<p>Executive Planner Date: 7th April 2022</p>