

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 22/7

NAME OF APPLICANT: ELGIN ENERGY SERVICES LTD

ADDRESS: BALLYDUFF,
TULLAMORE,
CO. OFFALY

ADDRESS FOR CORRESPONDENCE: C/O TOBIN CONSULTING ENGINEERS
BLOCK 10-4, BLANCHARDSTOWN CORPORATE PARK,
DUBLIN 15,
D15 X98N

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not a proposed underground 10KV grid connection to connect a permitted onsite solar farm substation to the existing 38Kv Srah substation is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: BALLYDUFF, TULLAMORE, CO. OFFALY

WHEREAS a question referred to Offaly County Council on 21/03/2022 as to whether a proposed underground 10KV grid connection to connect a permitted onsite solar farm substation to the existing 38Kv Srah substation at Ballyduff, Tullamore, 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) Section 2 of the Planning & Development Act 2000 as amended and
- (b) Sections 3 of the Planning & Development Act 2000 as amended and
- (b) Article 6 of the Planning and Development Regulations 2001 as amended and
- (c) Schedule 2, Part 1, Class 26 of the Planning and Development Regulations 2001 as amended.

AND WHEREAS Offaly County Council has concluded that –

The proposed works are development and are 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 2000, as amended, hereby decides that the development by Elgin Energy of a proposed underground 10KV grid connection to connect a permitted onsite solar farm substation to the existing 38Kv Srah substation at Ballyduff, Tullamore, Co Offaly **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.

R. Lomen
Administrative Officer

Date 14/04/2022

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 Dec 22/7

Re: Section 5 Declaration

A question has arisen as to whether:

A proposed underground 10KV grid connection to connect a permitted onsite solar farm substation to the existing 38Kv Srah substation. The total length of the route is 1.58km. and associated works at Ballyduff, Tullamore, Co Offaly is development and is or is not exempted development.

Assessment

It is considered that the proposed development does not constitute a development listed in Schedule 5 of the Planning and Development Regulations 2001 as amended. Furthermore, it is not a sub-threshold development. Accordingly an EIAR is not required.

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.

Planning and Development Act 2000, as amended.

Section 2

2.— (1) In this Act, except where the context otherwise requires—

“development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly;

“statutory undertaker” means a person, for the time being, authorised by or under any enactment or instrument under an enactment to—

(a) construct or operate a railway, canal, inland navigation, dock, harbour or airport,

(b) provide, or carry out works for the provision of, gas, electricity or telecommunications services, or

(c) provide services connected with, or carry out works for the purposes of the carrying on of the activities of, any public undertaking;

Section 3:

3.—(1) In this Act, “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.

I refer to the above. I have inspected the site and noted and considered the submissions on file. I would consider the proposed changes to be development having considered Sections 3 of the Planning & Development Act 2000 as amended.

Planning and Development Regulations 2001 as amended:

Article. 6. (1) 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.

Schedule 2, Part 1, CLASS 26 The carrying out by any undertaker authorised to provide an electricity service of development consisting of the laying underground of mains, pipes, cables or other apparatus for the purposes of the undertaking

Elgin Energy falls within the category of statutory undertaker on foot of its authorisation under the Planning Act to construct a solar farm (Planning Permission PL2 17/11) that is a project for the provision of electricity. On this basis the proposed development falls within the scope of Schedule 2, Part 1, CLASS 26 of the planning regulations.

Recommendation:

The development by Elgin Energy of a proposed underground 10KV grid connection to connect a permitted onsite solar farm substation to the existing 38Kv Srah substation. The total length of the route is 1.58km at Ballyduff, Tullamore, Co Offaly Co Offaly and associated works are considered development and are 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:

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Ed Kelly
Exec Planner
11/4/2022

Carroll Melia

Carroll Melia
A/ Senior Executive Planner
14th April 2022

**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 Application Ref. No.: Dec

2217

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:	
Proposed development:	A proposed underground 10KV grid connection to connect a permitted onsite solar farm substation to the existing 38Kv Srah substation. The total length of the route is 1.58km.
Site location:	Ballyduff, Tullamore
Identification of nearby European Site(s):	2000 site(s): SAC 000571– Charleville Wood SAC
Distance to European Site(s):	1.3 km
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?	No: ✓
(B) IDENTIFICATION OF THE RELEVANT European SITE(S):	
The reasons for the designation of the European site:	
The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets	

are Natura 2000 codes): [91E0] Alluvial Forests* [1016] Desmoulin's Whorl Snail (Vertigo moulinsiana)

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 www.npws.ie) (ATTACH INFO.)

Objective: 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 91E0 Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)* * denotes a priority habitat Code Common Name Scientific Name 1016 Desmoulin's Whorl Snail Vertigo moulinsiana

(C) NPWS ADVICE:

Advice received from NPWS over phone:	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)

<p>Would there be... ... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).</p>	Not likely due to the location and type of development.
	The site is sufficient distance from the European site.
<p>... a reduction in habitat area on a European site?</p>	There will be no reduction in the habitat area.
	The site is sufficient distance from the European site.
<p>... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the European site?</p>	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)?	<p>Not likely due to the location and type of development</p> <p>The site is sufficient distance from the European site.</p>
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?	<p>None likely due to the location and type of development</p> <p>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>No other plans known of in the vicinity of the site.</p> <p>The site is sufficient distance from the European site.</p>
(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:	Ed Kelly
Position:	Exec. Planner
Date:	11/4/2022

Given the location the nature and size of the development applied for and the characteristics of European sites in the vicinity it is considered that 500 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 500 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.

<https://www.npws.ie/protected-sites/sac/000571>