

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 22/9

NAME OF APPLICANT: MS MARGARET BARTON (CHAIRPERSON)

ADDRESS: C/O BOARD OF MANAGEMENT,
ST CRONAN'S NATIONAL SCHOOL,
GORTAREVAN,
LUSMAGH,
BANAGHER,
CO. OFFALY
R42 KC99

ADDRESS FOR CORRESPONDENCE: C/O DEREK COULTER
ARCHITECTURAL, SURVEYING & DESIGN SERVICES,
HILLSIDE,
BIRR,
CO. OFFALY.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the re-designation of a general 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.

WHEREAS a question referred to Offaly County Council on 19/04/2022 as to whether the re-designation of a general room to a playschool / before & after school childcare at St Cronan's National School, Gortarevan, Lusmagh, Banagher, 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(1), 3 (1) & 4 (1) and (2) of the Planning and Development Act 2000, as amended.
- (b) Schedule 2, Part 2, Exempted Development, Article 5 of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that –

The re-designation of a general room (within the existing St. Cronan's National School) to a playschool that will operate under the ECCE Scheme and a before & after school care (i.e. breakfast and homework club) as indicated on the documentation submitted by the Applicant on the 19th April 2022 and 10th May 2022 is 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 2000, as amended, hereby decides that the re-designation of a general room (within the existing St. Cronan's National School) to a playschool that will operate under the ECCE Scheme and a before & after school care (i.e. breakfast and homework club) as indicated on the documentation submitted by the Applicant on the 19th April 2022 and 10th May 2022 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

13/5/2022

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:	<i>Dec 22-09</i>
Question:	<i>Whether the re-designation of a general 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 re-designation (i.e. change of use) of a general purpose room which is within the St Cronan's National School to a playschool and before/after school childcare facility 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.**

The following Section 5 applications have been made on the subject site:

- Dec. 22/06: 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. Planning Authority decision based on the information which was submitted = **is development and is not exempted development.**

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.*

Section 9 - Restrictions on exemption.

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would— (deemed relevant by the Area Planner)

- (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*

Article 10 – Change of Use not included – please refer below for explanation.

Regulatory Provisions - Planning and Development Regulations 2001 (as amended)

Part 2, Exempted Development, Article 5 – Interpretation for this Part states that ‘school’ has the meaning assigned to it by the Education Act 1998.

Part 1 - Preliminary and General, Section 2 – Interpretation of the Education Act 1998 states that ‘school’ means an establishment which—

- (a) *provides primary education to its students and which may also provide early childhood education,*
or
- (b) *provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training,*

5. Proposal by Applicants

The Applicant wishes to ascertain whether the re-designation of a general room to a playschool / before & after school childcare facility is or is not development and is or is not exempted development. As part of the planning application, they have submitted the following;

- Room is to be used for breakfast club and homework club.
- Same children using the facility as are already in the school (no additional children).
- Less car movements proposed as parents won’t have to collect different age children at multiple times (less impact to the neighbourhood).
- School can cater for 100+ pupils but current numbers are at 51 so below allowance and projections are for no more than 60 in the coming years.
- No dwellings in the immediate vicinity, only a church, parish hall & GAA grounds.
- 50km/hr speed zone.

Tulsa requirements have dictated the following additional items:

- W.C.’s to be changed to low-level as indicated and additional basin added.
- Sink, fridge and worktop proposed in kitchenette for staff.
- Sink proposed in general purpose room.

Other than those listed above which are deemed to be minor by the Planning Authority, the Applicants confirm that no other building works or structural changes to the existing building will be required.

On the 10th May 2022, the Applicant provided additional information:

- Use No. 1 for Room: It is proposed to operate a **playschool** i.e. childcare facility in the room. This will be a preschool that will operate under the ECCE Scheme and the estimated number of service users is 12.

- Use No. 2 for Room: It is proposed to run a **before & after school care** i.e. breakfast and homework club for children who are attending the National School. The estimated number of service users would be 14.

The proposed daily schedule for Room is as follows:

- The before school care i.e. breakfast club will commence at 8am approx.
- Users of this service will move to their class in the National School at 9.10 approx.
- The Playschool will commence operation at 9.30am approx. for a period of 3 hours daily, concluding at 12.30approx.
- The afterschool care i.e. homework club will commence at 2pm approx. and conclude at 5pm approx.

With regard to traffic and car parking, the following is noted:

- With the National School currently having a capacity for up to 111 pupils but a current enrolment of 51 pupils there is ample parking space in the vicinity of the school for all traffic transporting the above services users.
- The operation of a before and after school care service will also result in some traffic at the school using the parking facilities on a staggered basis rather than all at a fixed point in time.
- Current projections would indicate that up to 50% of the Playschool service users would have a sibling in the National School. This will result in only one drop off at the school in the morning for these families which would also reduce any pressure on car parking facilities.
- As the proposed services will run consecutively rather than concurrently there will be no additional pressure on car parking facilities at any given point in time.

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 change of use of a section of the existing national school to a child care facility (preschool and before/after school facility) and minor internal alterations to the building would involve "works" within the meaning of Section 3 of the Act. Such works are considered "development" within the meaning of the Act.

b) "Is or is not Exempted Development"

The Applicant advises that the existing general purpose room will be used as a childcare facility that will operate under the ECCE Scheme and a before & after school care (i.e. breakfast and homework club).

The proposed before & after school care is considered to be part of the existing primary school as it will cater for students who are attending the St Cronan's National School.

With regard to the proposed childcare facility, the Planning Authority refer to the definition of school under the Education Act which states that a school can provide primary education to its students and may also provide early childhood education who includes ECCE Scheme.

The Planning Authority have taken into consideration the information submitted by the Applicant regarding the traffic and parking. They are satisfied that the change of use does not contravene a planning condition or endanger public safety by reason of traffic hazard or obstruction of road users.

Therefore, it is the view of the Planning Authority that the change of use from the existing general purpose room within the national school to a childcare facility that will operate under the ECCE Scheme and a before & after school care (i.e. breakfast and homework club) does not constitute a material change of use and therefore does constitute exempted development under the above mentioned Act and Regulations.

7. Conclusion

It is recommended that the re-designation of a general room (within the existing national school) to a playschool that will operate under the ECCE Scheme and a before & after school care (i.e. breakfast and homework club) **does constitute development** defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and is **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 re-designation of a general room (within the existing St. Cronan's National School) to a playschool / before & after school childcare facility /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 2, Exempted Development, Article 5 of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that –

The re-designation of a general room (within the existing St. Cronan's National School) to a playschool that will operate under the ECCE Scheme and a before & after school care (i.e. breakfast and homework club) as indicated on the documentation submitted by the Applicant on the 19th April 2022 and 10th May 2022 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 re-designation of a general room (within the existing St. Cronan's National School) to a playschool that will operate under the ECCE Scheme and a before & after school care (i.e. breakfast and homework club) as indicated on the documentation submitted by the Applicant on the 19th April 2022 and 10th May 2022 **is development and is exempted development.**



Una McCafferkey
Executive Planner

10th May 2022

Date



Carroll Melia
A/Senior Executive Planner

12th May 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 22/09

(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>Molinia caerulea</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
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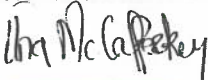
Summary of advice received from NPWS in written form (ATTACH SAME):	None Received
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(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:

(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 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>
<p>(E) SCREENING CONCLUSION:</p>	
<p>Screening can result in:</p>	
<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</p>
<p>Date:</p>	<p>10th May 2022</p>