

18th August 2023

Rathanna,
Borris,
Co Carlow,

T +353 (0)85 8527891

Planning & Economic Development
Carlow County Council
County buildings,
Athy Road
Carlow



Our reference: EOA/Caswell & Stone/Warning Letter Response

Re: Section 5 application for an Exempted Development under, Class 37 of Schedule 2, part 1 of the Planning and Development Regulations, 2001.

A Chara,

I am writing on behalf of Cashwell & Stone Ltd. The food truck experience in Clonegal Village ran by Margaret Caswell and Henry Stone. They would like to apply for Exempted Development under Class 37 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001.

Planning and Development Regulations, 2001

Schedule 2, Part 1 of these Regulations provides for Exempted Development –General. This includes under the category Development for amenity or recreational purposes:

Class 37 - "Development consisting of the use of land for any fair, funfair, bazaar or circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use" is exempted development subject to the following conditions and limitations:

- 1. The land shall not be used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year.*
- 2. On the discontinuance of such use the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act."*

Cashwell & Stone are using this public land for a local event which is both cultural, social and recreational. Henry Stone is head chef and owner of Sha-Roe Restaurant, this high class award winning restaurant is one of the jewels of culinary experiences in Carlow / the South East and is located adjacent to the site where the food truck operates. This food truck is an extension of

Henry & Mags vision, to make great food accessible to all and educate people of the high quality local sourced food. They provide a weekly social and recreational experience for the local people to meet up and enjoy the beauty that Clonegal has to offer. This in turn feeds into other local business and tourists attractions like Huntington Castle. This is a list of the 30 dates in 2023 when the food truck was / going to be, operational on this site

April 30
May 1
May 6, 7
May 20, 21
May 27, 28
June 3,4,5
June 11
June 17, 18
June 24, 25
July 8, 9
July 16
July 23
July 29, 30
Aug 5, 6, 7
Aug 12, 13
Aug 20
Aug 27
Sept 3

The van is parked on a off-street tarmacked parking area adjacent to the River Derry, referred to as Clonegal Car Park and the tables and chairs are located on a public green area. There is no traffic hazard or at any time obstructions to road users. The food truck is positioned on site on a morning of proposed treading and it is removed in the evening, returning the carpark to its full use. In line with Class 37 they will not exceed an aggregate of 30 day use annually.

In conclusion we respectfully ask that you allow us to continue to operate under the exempted development legislation we refer to above and allow us the opportunity to work with the local council separately to apply for a Casual Treading Licence in due course.

Cashwell & Stone have being following the development of the new Carlow Casual Treading Bye-laws 2023 which came into force on the 1st July 2023 and had assumed they would be able to apply for a Casual Treading Licence for this site. They had assumed that annual licence application by a food truck operative would allow for them to apply for a specific location, for a specified number of days and adhere to the licence conditions as specified by the council. They had not realised proposals for individual sites, where the bye -laws would only apply, were required to be submitted during the consultation period and instead believed each licence application, on submission, would be assessed at the time, for suitability of the location.

On review of these bye laws, I can confirm this business complies currently and has always complied with the details of the Casual Treading Bye-laws, in particular, they have always carried the appropriate insurance and indemnification of the local council for their business in line with corporate standards, they have maintained a clean and well presented area which is cleared away every evening to allow the area used to return to car park spaces. While also complying

with all HSE requirements and guidelines along with the promotion of locally sourced sustainable food at the highest standard.

We are in consultation with Carlow Enterprise Board, who developed the Casual Treading Bye-Laws 2023 for the Municipal District of Tullow and we have submitted a request to include this area as a zone which would enable Cashwell & Stone Ltd to apply for a licence and abide by the Casual Treading Bye-Laws with in. This may not happen until late next summer as the new Bye Laws wont be reviewed until then.

Following a review of past An Bord Pleanala cases in relation to casual treading and in accordance with the legislation as set out below:

"Planning and Development Act, 2000

Under Section 2(1), the following is the interpretation of 'works':

"...includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

Section 3 (1) states as follows:

"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."

Under Section 3(2)(b)(i), it is stated, inter alia, that for the purposes of subsection (1) and without prejudice to the generality of that subsection where land becomes used for "...the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods..." the use of the land shall be taken as having materially changed.

Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of this Act and includes (k) "development consisting of the use of land for the purposes of a casual trading area (within the meaning of the Casual Trading Act, 1995)." Section 4 (2) provides for the making of Regulations. The main Regulations are the Planning and Development Regulations, 2001.

Planning and Development Regulations, 2001

Article 6 (1) states as follows:

"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."

Article 9(1) refers to development to which article 6 relates not being exempted if the carrying out of such development and includes would:

(i) Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act and..

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

Schedule 2, Part 1 of these Regulations provides for Exempted Development –General. This includes under the category Development for amenity or recreational purposes:

Class 37 - "Development consisting of the use of land for any fair, funfair, bazaar or circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use" is exempted development subject to the following conditions and limitations:

1. The land shall not be used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year.

2. On the discontinuance of such use the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act."

An Bord Pleanála, Inspectors Report RL 07.RL3441

Although this case differs greatly from ours the report sets out the conditions where Exempted Development may be permitted under Class 37. As such, Cashwell & Stone are wishing to operate their food truck in accordance with this regulation and exemptions as their offering can be characterised as social and recreational along with being educational and promoting all that is good about Carlow.

Although their season is soon coming to an end and the 30 days allowance has nearly been used we would like to get clarification on whether this offering is covered under Class 37 and this will allow them to tread for the allocated 30 days next year while they are working with the enterprise board to designate the site for Casual treading under the bye laws.

This is a magnificent business and shows off all that is great about Clonbeg and what Carlow has to offer, we would hate to lose it and the weekend employment it currently gives. Cashwell & Stone have the support of all the neighbours and letters of such can be provided if necessary.

I trust the above is in order, however if you have any further comments or queries please don't hesitate to contact me.

Kind regards

Eric Osborne MARCH MRAI RIBA ARB ARB Reg: 075662H RIAI Reg: 19054



Signed

18/08/23
Date

COMHAIRLE CHONTAE CEATHARLOCHA
CARLOW COUNTY COUNCIL

C A R L O W
C O U N T Y C O U N C I L

COMHAIRLE CHONTAE CEATHARLOCHA



COUNTY BUILDINGS, ATHY ROAD, CARLOW.

Tel: Phone: 059-9170300/ Fax: 059-9170836

Website: www.carlow.ie

Application Form for Section 5 Declaration on Development & Exempted Development

1. Name of applicant: _____ Margaret Caswell & Henry Stone _____

2. Address of applicant: _____

3. Name and address for correspondence: _____

Tel. No: _____ Fax No: _____ E-mail: _____

4. Location of Development: Townland: _____ Main Street, Clonegal, Co. Carlow _____

Postal Address: (if different from Townland): _____

5. Name and Address of Agent: _____ Eric Osborne Architect, Rathanna, Borris Co Carlow _____

6. Outline clearly the description of the development / proposal:

Seeking clarification of Exempted Development of the operation of a food truck for social, cultural and recreational purposes under Class 37 of Schedule 2, part 1 of the Planning and Development Regulations, 2001. Located at this site in Clonegal Village where the food truck is operational for no more than 30 days annually

OSi PLACE Map

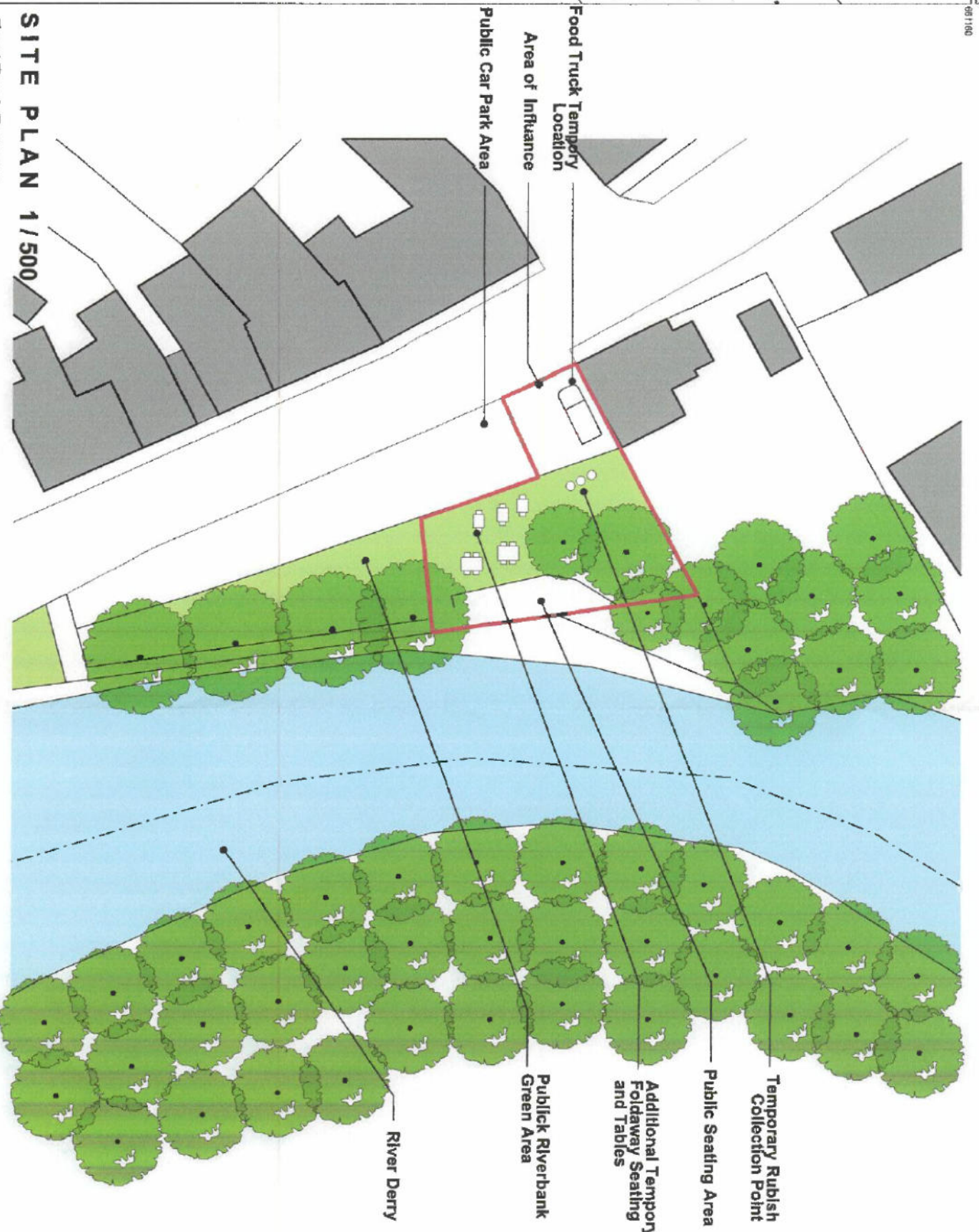


SITE LOCATION PLAN 1/1000

0 9.5 19 28.5 38 Metres
0 10 20 30 40 50 Feet
OUTPUT SCALE: 1:1,000

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The representation on this map is not a guarantee of the accuracy of the information shown.

SITE PLAN 1/500



SITE VIEW

Author	Eric Osborne Architect
Client	MALCOLM WILKINSON AND CASWELL & STONE
Project	CASWELL & STONE FOOD TRUCK
Site	SITE LOCATION PLAN & SITE PLAN
Date	18/08/23
Drawn	15/08/23
Checked	23/07/23

**CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

Section 5 Declaration

Reference No. SEC5/23/30

Name of Applicant:	Margaret Caswell & Henry Stone
Site Address:	Main Street, Clonegal, Co. Carlow.
Referral:	Whether or not the operation of a food truck for social, cultural and recreational purposes for no more than 30 days annually under Class 37 of Schedule 2, Part 1 of the Planning and Development Regulations 2001.

1)Site Location

The referral site in question is located on Main Street in Clonegal village. The site comprises of an off street public car parking (known as Clonegal Car park) and green space area that backs onto the River Derry. The site is located within the Slaney River Valley SAC (Site Code:00781) and proposed Natural Heritage Area (pNHA). There is a footpath along the riverbank and some outdoor seating. There are several mature trees within the grassed area.



Approx. location of referral site outlined in red

2)Relevant Planning History

No other recent planning history noted for the site on IPLAN.

3) Relevant Legislative/Regulatory Provisions

Planning and Development Act 2000 (as amended) – (hereafter the Act)

Section 2(1)

***“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)

*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.*

(2) For the purposes of subsection (1) and without prejudice to the generality of that subsection—

(b) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

the use of the land shall be taken as having materially changed.

Section 4(1)

The following shall be exempted developments for the purposes of this Act—

- a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;*

and includes -k) development consisting of the use of land for the purposes of a casual trading area (within the meaning of the Casual Trading Act, 1995).

Section 4(2)

the ‘Minister’ may by Regulation provide for any class of development to be exempted development for the purposes of the Act.

Section 4(4)

‘Notwithstanding..... any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Planning and Development Regulations 2001 (as amended) – (hereafter the Regulations)

-Article 6(1)

provides that 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 mention of that class in the said column 1.

-Article 9(1)

provides that 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 –

(i) Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

-Article 10 (1)

specifies that 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, provided that the development, if carried out would not :-

- a) Involve the carrying out of any works other than works which are exempted development,*
- b) contravene a condition attached to a permission under the Act*
- c) be inconsistent with any use specified or included in such a permission: or*
- d) be a development where the existing use is an unauthorised use, save where such a change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.*

Schedule 2, Part 1 of the Regulations deals with general exempted development.

Class 37 - *Development consisting of the use of land for any fair, funfair, bazaar or circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use.*

1. The land shall not be used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year.

2. On the discontinuance of such use the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.

4)Environmental Impact Assessment

Having regard to the nature, size and location of the development as detailed in the plans and particulars received, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination would not be required.

5)Appropriate Assessment

The majority of the referral site is within the Slaney River Valley SAC (Site Code: 0007811). The SAC is designated for a range of riverine species and habitats for which suitable water quality is required. However, the subject development is minor in nature, does not involve any external works and essentially relates only to a change of land use. The development has been assessed having regard to the requirements of the EU Habitats Directive. Given the nature and extent of the referral in question and its temporary use, it is considered reasonable to conclude on the basis of the information available which is deemed adequate to inform a screening determination, that the development on its own or in combination with other plans or projects, would not be likely to result in any potential significant effects on the European Site. Therefore, Appropriate Assessment is not required.



Location of SAC and Referral Site

6)Flood Risk

On the basis of SFRA mapping the majority of the site is within Flood Zone A - Chance of Flooding Once Every 100 years. The proposed is a compatible use that would not impact on hydrology as no groundworks are proposed.

7)Built Heritage

Archaeology

No recorded features on or in the vicinity of the site.

Architectural Heritage (RPS, NIAH & ACA)

The subject referral site directly adjoins a Protected Structure-CW249-a 19th century house of Regional Importance. The proposed development having

regard to its temporary and minor nature will not impact on the Protected Structure.

8) Planning Precedent Cases

An Bord Pleanála Ref: RL3429: In this case it was decided that the trading in perishable goods for at least one day per week at Kinard, Enniscrone, County Sligo, is development and is not exempted development. It was decided that the use of the car park for the stated purpose of trading in perishable goods is a material change of use – Section 3(2)(b)(i) of the Planning and Development Act 2000 (as amended) and the trading period exceeds the Conditions and Limitations of Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 and that the exempted development provisions of Section 4(1)(k) of the Planning and Development Act, 2000 as amended do not apply.

An Bord Pleanála Ref: RL2874: In this case it was decided that the parking of a temporary mobile vehicle on private land on Main Street, Skibbereen, Co. Cork, and its use for sale of hot food for consumption off the premises, does not come within the scope of Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as it is parked continuously at the same location and therefore exceeds the conditions and limitations of that class, where such vehicles may only be parked for on the land for 15 days continuously.

An Bord Pleanála Ref: RL2813: The Board decided that the holding of a county market at Sandyford Industrial Estate, Dublin comes within the meaning of “fair” for the purposes of Class 37 and is development that is exempted development when it operates occasionally for periods not exceeding 30 days in any year.

An Bord Pleanála Ref: RL3107: In this case the Board decided that the occasional weekly use as a public market at Chute’s Lane, Tralee, Co. Kerry is development and is not exempted development, as the said use would come within the scope of exempted development as defined in Class 37, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, but from the information on file, would exceed the conditions and limitations of same, being held on more than 30 days per year.

An Bord Pleanála Ref: RL2822: The Board decided in this case that the establishment of a farmers’ market in Manor West Retail Park, Tralee, Co. Kerry would generally come within the scope of exempted development as defined in Class 37 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001, but would exceed the conditions and limitations of same, being held on more than 30 days a year, and would also contravene a condition of a previous planning permission on site.

9) Assessment

The application form is accompanied by a cover letter, site location map, and site plan. No details have been provided on the food truck.

The referral seeks a declaration as to whether the occasional use of a single food truck on an existing car parking area on public lands is or is not exempted development relevant to the provisions of Schedule 2, Part 1, Class 37 of the Planning and Development Regulations 2001 (as amended). Weekend dates have been provided from April 30th to Sept 3rd, 2023, for when the truck was trading this year. The cover letter submitted with the referral sets out that on specific weekend dates (aggregate of 30 days per year) the truck is positioned on site in the morning and is removed every evening.

Therefore, the proposal involves the occasional use of the existing car park and open space area for the sale of food from a food truck and associated seating area. The truck is operated by the owners of the adjoining Sha-Roe restaurant. The cover letter also sets out that the applicants have applied for a Casual Trading License. A letter of consent from Carlow County Council to the proposed use of the lands has not been included. However, this is generally a matter for Corporate Services.

In the first instance it is evident from the details and particulars submitted with the referral that the proposal does not include any 'works' having regard to the definition of same within Section 2 of the Act. There is no '*construction, excavation, demolition, extension, alteration, repair or renewal*' proposed in the details submitted with the referral. However, the proposal is considered development for planning purposes pursuant to the definition 'development' in Section 3(2)(b)(i) of the Act whereby;

(2) For the purposes of subsection (1) and without prejudice to the generality of that subsection—

(b) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

the use of the land shall be taken as having materially changed.

Accordingly, it is the opinion of the Planning Authority that the proposal would constitute a change of land use from public car park and green area to the sale of goods which in this instance is food and associated seating area. The development in question is 'material' and thus constitutes development within the meaning of Section 3 of the Planning and Development Act, 2000, as amended.

The present use of the referral site is as a public car park and open space. It is not land which is presently used for the purposes of a casual trading area (within the meaning of the Casual Trading Act, 1995) and therefore the provisions of Section 4 (1) (k) of the Act do not apply.

To come within the scope of Schedule 2, Part 1, Class 37 of the Regulations the food truck would need to form part of a fair, funfair, bazaar, circus or part

of a local event of a religious, cultural, educational, political, social, recreational or sporting character. As such having regard to the conditions and limitations as noted above the siting of the mobile food truck for on aggregate, as provided in the information submitted 30 days a year in the public carpark area does not meet these criteria. The subject food truck is not linked to any specific event but rather is positioned primarily on weekends dates from April to September as part of the food offering related to the adjoining restaurant. As such the said use would not come within the scope of exempted development as defined in Class 37, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

Accordingly, the Planning Authority conclude that the placement of a mobile (movable) structure in this case a food truck for use for the sale of food for consumption off the premises is development and is not exempted development.

9)Recommendation

Having regard to the foregoing, it is the view of the Planning Authority that the use of lands for occasional provision of a mobile food truck at Clonegal Car Park, Main Street, Clonegal, Carlow is development and is not exempted development by virtue of the provisions contained in, Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

A draft order is set out below.

Signed: 
Executive Planner
Date: 7/9/23

Signed: 
Senior Planner
Date: 7/9/23

**Declaration on Development & Exempted Development
Section 5 of the
Planning and Development Act 2000 (as amended)**

WHEREAS questions have arisen as to whether the use of a mobile food truck on a temporary basis for the sale of food and its consumption off site is or is not development and is or is not exempted development, at Clonegal Car Park, Main Street, Clonegal, Co. Carlow;

AS INDICATED on the plans and particulars received by the Planning Authority on 21/08/2023;

AND WHEREAS Margaret Caswell; and Henry Stone, [REDACTED] requested a declaration on the said question from Carlow County Council;

AND WHEREAS Carlow County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) The information included in the submitted plans and particulars;
- (b) The relevant planning history relating to the site;
- (c) The existing use of the site;
- (d) Section 2, 3 and 4 of the Planning and Development Act, 2000 as amended,
- (e) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended.
- (f) Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.

AND WHEREAS Carlow County Council has concluded that;

- (a) The works constitute development, being works which come within the scope of section 3(2)(b)(i) of the Planning and Development Act 2000(as amended), a material change of use and is therefore development.
- (b) The land where the food truck will be parked, which will be used for the sale of food for consumption off the premises, is not designated for the purposes of a casual trading area, under section 4(1)(k) of the Planning and Development Act 2000 as amended.
- (c) The said parking of a temporary mobile food truck on public land and its use for sale and consumption of food off the premises does not come within the scope of Class 37 of Part 1 of Schedule 2 of the

Planning and Development Regulations 2001, as amended, as it is not associated with a specific local event.

NOW THEREFORE Carlow 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 said use of these lands at Clonegal Car Park, Main Street, Clonegal, Co. Carlow, **is development and is not 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 Pleanála within 4 weeks of the issuing of the decision.

APPENDIX 1

APPROPRIATE ASSESSMENT SCREENING REPORT

DESCRIPTION OF PROJECT AND LOCAL SITE

Reg. ref. SEC5-23-30— questions have arisen as to whether the use of a mobile food truck on a temporary basis for the sale of food and its consumption off site is or is not development and is or is not exempted development.

Site Location:

Clonegal Car Park, Main Street, Clonegal, Co. Carlow;

Total Site Area: N/a

Floor area of proposed development: N/a

Identification of nearby Natura 2000 site(s):

The majority of the referral site is within the Slaney River Valley SAC (Site Code: 0007811). The SAC is designated for a range of riverine species and habitats for which suitable water quality is required.

The subject development is minor in nature, does not involve any external works and relates only to a change of use. The development has been assessed having regard to the requirements of the EU Habitats Directive. Given the proximity of the nearest European Site and the nature and extent of the referral in question and intervening land uses located in the area, it is considered reasonable to conclude on the basis of the information available which is deemed adequate to inform a screening determination, that the development on its own or in combination with other plans or projects, would not be likely to result in any potential significant effects on the European Site. Therefore, Appropriate Assessment is not required.

Is the application accompanied by an EIS?

No.

B. IDENTIFICATION OF THE RELEVANT NATURA 2000 SITE(S)

The reasons for the designation of the Natura 2000 site:

(A site synopsis can be obtained from www.npws.ie)

The conservation objectives/qualifying interests of the site and the factors that contributes to the conservation value of the site:

(A site synopsis can be obtained from www.npws.ie))

C. NPWS ADVICE

Advice received from NPWS over phone:

None

Summary of advice received from NPWS in written form:

None

D. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

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

If answer yes to any of the questions, below then the effect is significant.

Would there be any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance)

No.

Would there be a reduction in habitat area on a Natura 2000 site?

No.

Would there be direct/indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site?

No.

Would there be serious/ongoing disturbance to species/habitats for which the Natura 2000 site is selected (e.g. because of increased noise, illumination and human activity)?

No.

Would there be direct/indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site?

No.

Would the project interfere with mitigation measures put in place for other plans/projects. (Look at in-combination effects with completed, approved but not completed, and proposed plans/projects. Look at projects/plans within and adjacent to Natura 2000 sites and identify them).

No.

E. SCREENING CONCLUSION

The development has been assessed having regard to the requirements of the EU Habitats Directive. Given the proximity of the nearest European Site and the nature and extent of the referral in question and intervening land uses located in the area, it is considered reasonable to conclude on the basis of the information available which is deemed adequate to inform a screening determination, that the development on its own or in combination with other plans or projects, would not be likely to result in any potential significant effects on the European Site. Therefore, Appropriate Assessment is not required.

Signed: _____


7/9/23



Declaration on Development & Exempted Development
Section 5 of the
Planning and Development Act 2000 (as amended)
SEC5.23.30

WHEREAS questions have arisen as to whether the use of a mobile food truck on a temporary basis for the sale of food and its consumption off site is or is not development and is or is not exempted development, at Clonegal Car Park, Main Street, Clonegal, Co. Carlow;

AS INDICATED on the plans and particulars received by the Planning Authority on 21/08/2023;

AND WHEREAS Margaret Caswell; and Henry Stone, [REDACTED] requested a declaration on the said question from Carlow County Council;

AND WHEREAS Carlow County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) The information included in the submitted plans and particulars;
- (b) The relevant planning history relating to the site;
- (c) The existing use of the site;
- (d) Section 2, 3 and 4 of the Planning and Development Act, 2000 as amended,
- (e) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended.
- (f) Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.

AND WHEREAS Carlow County Council has concluded that;

- (a) The works constitute development, being works which come within the scope of section 3(2)(b)(i) of the Planning and Development Act 2000(as amended), a material change of use and is therefore development.
- (b) The land where the food truck will be parked, which will be used for the sale of food for consumption off the premises, is not designated for the purposes of a casual trading area, under section 4(1)(k) of the Planning and Development Act 2000 as amended.
- (c) The said parking of a temporary mobile food truck on public land and its use for sale and consumption of food off the premises does not come within the scope of Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, as it is not associated with a specific local event.

NOW THEREFORE Carlow 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 said use of these lands at Clonegal Car Park, Main Street, Clonegal, Co. Carlow, **is development and is not 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 Pleanála within 4 weeks of the issuing of the decision.

Signed: Shirley O'Neill

Date: 11/09/2023