

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 23/37

NAME OF APPLICANT:

ALAN CARTER

ADDRESS:

C/O BERNIE CARTER ROBINSON, BALLYMACWILLIAM,
RHODE, 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 PROPOSED INTERNAL AND
EXTERNAL RENOVATIONS TO A DWELLING INCLUDING
THE CONSTRUCTION OF A BOUNDARY WALL AND
DOMESTIC GARAGE IS OR IS NOT DEVELOPMENT, AND IS
OR IS NOT EXEMPTED DEVELOPMENT.

LOCATION OF DEVELOPMENT:

39 CASTLE VIEW PARK, EDENDERRY, CO. OFFALY.

WHEREAS A question referred to Offaly County Council on 17/10/2023 as to whether or not the proposed internal and external renovations to a dwelling including the construction of a boundary wall and domestic garage at 39 Castle View Park, Edenderry, Co. Offaly is or is not development, and is or is not exempted development under the Planning and Development Act 2000, (as amended).

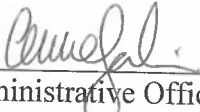
AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to:

- (a) Section 2, 3(1) and 4(1)(h), 4(2)(a)(i) of the Planning & Development Act 2000, as amended.
- (b) Article 6 of the Planning and Development Regulations 2001, as amended.
- (c) Schedule 2, Part 1, Class 12 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 the powers conferred on it by Section 5 (2)(a) of the Planning and Development Act 2000, as amended, hereby decides the proposed works internal & external renovations to a dwelling **is development and is exempted development** at 39 Castle View Park, Edenderry, Co. Offaly.

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

16th Jun. 2024.
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. 23/37</i>
Question:	<i>Whether the proposed internal & external renovations to a dwelling including the construction of a boundary wall and domestic garage is or is not development and if so, are they exempted development?</i>
Applicant:	<i>Alan Carter</i>
Correspondence Address:	<i>C/O Bernie Carter, Ballymacwilliam, Rhode</i>
Location:	<i>39 Castle View Park, Edenderry, Co. Offaly.</i>

SECOND REPORT ON FILE

1. Review of Further Information

Further information was sought by the Planning Authority on 13th November 2023 and subsequently received by the Planning Authority on 16th November 2023. This report should be read in conjunction with the previous planner's report dated 8th November 2023. The following Further Information was sought and the response is as follows:

1. Please indicate that the works as specified in the submitted PMB correspondence are the subject of this requests for a declaration.

Applicants Response: The Applicant has indicated the proposed boundary wall and garden shed (as indicated on the PMP correspondence) will not be constructed due to financial constraints.

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 has indicated the construction of a garden shed forms part of the development. Therefore the Applicant is requested to submit a site layout (scale 1:500) indicating the location of the proposed shed as well as structural drawings of the same shed (scale 1:100). The Applicant should note the same garden shed will be likely to be deemed exempt if it complies with Class 3, Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

In the interests of convenience please see a copy of Class 3, Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

CLASS 3

The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

- (a) *No such structure shall be constructed, erected or placed forward of the front wall of a house.*
- (b) *The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*
- (c) *The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.*
- (d) *The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*
- (e) *The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.*
- (f) *The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.*

Applicants Response: The Applicant has indicated the proposed garden shed (as indicated on the PMP correspondence) will not be constructed due to financial constraints.

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

3. The Applicant has indicated that the construction of a boundary wall forms part of the development. The Applicant is therefore requested to clarify the type of boundary wall proposed as well as the overall height of same. The Applicant should note the same boundary wall shall comply with Class 5, Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

In the interests of convenience please see a copy of Class 5, Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

CLASS 5

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete

- (a) *The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.*

(b) *Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.*

(c) *No such structure shall be a metal palisade or other security fence.*

Applicants Response: The Applicant has indicated the proposed boundary wall (as indicated on the PMP correspondence) will not be constructed due to financial constraints.

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

It is noted the applicant originally asked the question '*Whether the proposed internal & external renovations to a dwelling including the construction of a boundary wall and domestic garage is or is not development and if so, are they exempted development*', however the applicant has indicated in the further information response that he is not constructing either the domestic garage or boundary wall, therefore the applicants declaration should be revised to state:

Whether the proposed internal & external renovations to a dwelling is or is not development and if so, are they exempted development'

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 internal & external renovations to a dwelling (excluding the construction of a boundary wall and domestic garage) 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 the proposed internal & external renovations to a dwelling at 39 Castle View Park, Edenderry, Co. Offaly is or is not development is or is exempted development and is or is not exempted development

AND WHEREAS Alan Carter, C/O Bernie Carter, Ballymacwilliam, Rhode 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) Section 2, 3(1) and 4(1)(h), 4(2)(a)(i) of the Planning & Development Act 2000, as amended.
- (b) Article 6 of the Planning and Development Regulations 2001, as amended.
- (c) Schedule 2, Part 1, Class 12 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 the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that:

- The proposed works internal & external renovations to a dwelling is **development** and is **exempted development** at 39 Castle View Park, Edenderry, Co. Offaly.

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.

Michael Duffy

Ed Kelly

Michael Duffy

Ed Kelly

Executive Planner

Acting Senior Executive Planner

27th November 2023

15/1/2024

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/23/37

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:		
Proposed development:	Whether the proposed internal & external renovations to a dwelling including the construction of a boundary wall and domestic garage is or is not development and if so, are they exempted development?	
Site location:	39 Castle View Park, Edenderry, Co. Offaly.	
Site size:	N/A	Floor Area of Proposed Development: N/A
Identification of nearby European Site(s):	THE LONG DERRIES SAC, EDENDERRY	
Distance to European Site(s):	4.53km	
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 site:	Given the limited scale of the development applied for it is not considered that it will have any interactive / cumulative impacts with any other plan or project in the vicinity.	
Is the application accompanied by an EIAR?	No	
(B) IDENTIFICATION OF THE RELEVANT European sites (S):		
The reasons for the designation of the European sites (s):	The Long Derries is of botanical importance due to the presence of good quality dry, calcareous grassland, an interesting gravel pit flora and the presence of three rare plant species, two of which are legally protected. The presence of an interesting transition habitat from Esker to peatland, and a varied bird population, including the rare Nightjar and Partridge, adds to the site's importance.	
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 sites synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) (ATTACH INFO.)		

An important aspect of this site is the presence of the rare, Red Data Book species, Blue Fleabane (*Erigeron acer*), and the legally protected (Flora Protection Order, 1987), Basil Thyme (*Acinos arvensis*) and Green-winged Orchid (*Orchis morio*). A large population of the latter species occurs in the grassland communities, including those in the transition to peatland zone. Blue Fleabane is found in grassland and gravel pits on the site, the latter habitat also supporting Basil Thyme.

The summer birdlife of this area includes Sand Martin, Whinchat, Whitethroat and Cuckoo. Nightjar, a rare species listed in Annex I of the EU Birds Directive, breeds on the site. Partridge, an endangered species in Ireland and one listed in the Red Data Book, is known from the site. Badgers have setts along some of the mature hedgerows.

(C) NPWS ADVICE:

Advice received from NPWS over phone:

None received.

Summary of advice received from NPWS in written form (ATTACH SAME):

(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 sites?

Not likely due to the location and type of development. 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 sites?

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 sites 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.

<p>... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European sites?</p>	<p>Not likely due to the location and type of development. The site is sufficient distance from the European site.</p>
<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>
<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>Conclusion:</p>	
<p>Justify why it falls into relevant category above:</p>	<p>2 Given the location and the nature and size of the development applied for and the characteristics of European sites in the vicinity and the appropriate assessment guidelines it is considered that the development will have no likely significant impacts on any European sites</p>
<p>Name:</p>	<p>Michael Duffy</p>
<p>Position:</p>	<p>Executive Planner.</p>
<p>Date:</p>	<p>27th November 2023</p>

