

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

REFERENCE: DEC 23/40

NAME OF APPLICANT: CLAIRE LARKIN

ADDRESS: GLASCLOON
ROSCREA
CO. OFFALY
E53 KH73

ADDRESS FOR CORRESPONDENCE: GLASCLOON, ROSCREA, CO. OFFALY, E53 KH73

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or the renovation of an existing dwelling is or is not development and is or is not exempt development.

LOCATION OF DEVELOPMENT: Glascloon, Roscrea, Co. Offaly, E53 KH73

WHEREAS a question has arisen as to whether or not the renovation of an existing dwelling is or is not development and where it is development, whether or not it is or is not exempted development at Glascloon, Roscrea, Co. Offaly, E53 KH73

AS INDICATED on the particulars received by the Planning Authority on the 20th October and 27th November 2023.

AND WHEREAS Claire Larkin 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) of the Planning & Development Act 2000, 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 repairs to roof and first floor (excluding changes to the nature of roof materials and roof pitch), new fascia and soffit, new gutters, drylining and plastering of walls, new soak pit, painting of house, new external doors, gas heating system and internal works to an existing dwelling is **development and is exempted development** at Glascloon, Roscrea, Co. Offaly, E53 KH73

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. O'Connell

Administrative Officer

Date 14/12/2023

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. 23/40</i> |
| Question: | <i>Whether the proposed internal and external works to refurbish an existing dwelling house is or is not development and if so, are they exempted development.</i> |
| Applicant: | <i>Claire Larkin</i> |
| Correspondence Address: | <i>Glascloon, Roscrea, Co. Offaly, E53 KH73</i> |
| Location: | <i>Glascloon, Roscrea, Co. Offaly, E53 KH73</i> |

2nd Planning Report

Please refer to previous report dated 15th November 2023.

1. Introduction

The question has arisen as to whether the proposed internal and external works (as detailed) to refurbish an existing dwelling house is or is not development and if so, are they exempted development.

2. Background

The existing dwelling is located in the countryside beside multiple farm buildings. The dwelling house is approximately 2.85km from Coolderry Central National School.

3. Review of Further Information

Further information (FI) was sought by the Planning Authority on the 16th November 2023. A response was subsequently received on the 27th November 2023.

This report should be read in conjunction with the previous planner's report dated 15th November 2023. The following FI was sought and the response is as follows:

- 1. The applicant has indicated the works will include the removal and installation of the roof and 1st floor. Therefore, the applicant is required to provide greater clarity and information on the works to be carried out with regards to the removal and installation of the roof and 1st floor.*

Please provide elevation drawings if the removal and installation of the roof and 1st floor involves any changes to the exterior of the building. In this regard the applicant may wish to have regard to section S.4 (1)(h) of the Planning and Development Act 2000 (as amended) regarding exemptions from requiring planning permission.

For reference, please see a c Section 4 (1)(h) of the Planning and Development Act 2000 (as amended):

4.—(1) The following shall be exempted developments for the purposes of this Act—

(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 the structure or neighbouring structures.'

In response, the Applicant states the following:

- *There have been no alterations or changes to the exterior of the property.*
- *The exterior will remain in their original state.*
- *There have been no structural changes, additions or renovations that would impact the visual aesthetics or compliance with any relevant regulations.*

It is the view of the Planning Authority that the Applicant has not provided clarity on whether the removal and installation of roof and 1st floor, as detailed in the submitted document titled '*Re: Croí Cónaithe Grant Work to Be Completed*', form part of this request for a declaration. Therefore, these works will be excluded from the Declaration.

4. Evaluation

Question: Whether the proposed works (as listed) to the existing dwelling are development and if so, are they exempted development?

In considering the proposed works against the definitions of 'development' and 'works' as provided in the Act, it is the view of the Planning Authority that the proposed works are deemed as development as it includes refurbishments and alterations to the existing dwelling.

Question: Is this proposal considered as Exempted Development?

In considering the works outlined by the Applicant, the Planning Authority conclude that these works (excluding works to the roof and roof pitch) would only affect the interior of the structure and do not materially affect the external appearance of the structure and are therefore deemed as exempted development.

5. Recommendation

Having assessed the further information received and the previous planning report on file, it is the view of the Planning Authority that the proposed works to the dwelling (excluding works to the roof and roof pitch) as shown on the submitted documentation 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 or not the renovation of an existing dwelling is or is not development and, where it is development, whether or not it is or is not exempted development at Glascloon, Roscrea, Co. Offaly, E53 KH73.

AS INDICATED on the particulars received by the Planning Authority on the 20th October 2023 and 27th November 2023;

AND WHEREAS Claire Larkin 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) Sections 2, 3 and 4(1) h of the Planning & Development Act 2000 as amended.

AND WHEREAS Offaly County Council has concluded that the renovation and updating of a house 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 repairs to roof and first floor (excluding changes to the nature of roof materials and roof pitch), new fascia and soffit, new gutters, drylining and plastering of walls, new soak pit, painting of house new external doors, gas heating system and internal works to an existing dwelling is **development and is exempted development** at Glascloon, Roscrea, Co. Offaly, E53 KH73.

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.



Úna McCafferkey
Executive Planner

14th December 2023

Date



Ed Kelly
A/Senior Executive Planner

Date 14/12/2023

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 23/40

| (A) DESCRIPTION OF PROJECT AND LOCAL SITE: | | | |
|--|---|-------------------------------------|-----------|
| Proposed development: | Whether the proposed internal and external works to refurbish an existing dwelling house is or is not development and if so, are they exempted development. | | |
| Site location: | Glascloon, Roscrea, Co. Offaly, E53 KH73 | | |
| Site size: | Not given | Floor Area of Proposed Development: | Not given |
| Identification of nearby European Site(s): | Slieve Bloom Mountains SPA – 2.73km Island Fen SAC – 6.88km Lisduff Fen SAC – 7.22km Sharavogue Bog SAC – 8.37km | | |
| 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? | | | No: X |
| (B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S): | | | |
| The reasons for the designation of the European site(s): | | | |
| <p>Island Fen SAC – Features of interest include:</p> <ul style="list-style-type: none"> • [5130] Juniper Scrub • [7230] Alkaline Fens <p>Lisduff Fen SAC - Features of interest include:</p> <ul style="list-style-type: none"> • [7220] Petrifying Springs* • [7230] Alkaline Fens • [1013] Geyer's Whorl Snail (Vertigo geyeri) * <p>Sharavogue Bog SAC – Features of interest include</p> <ul style="list-style-type: none"> • [7110] Raised Bog (Active)* • [7120] Degraded Raised Bog • [7150] Rhynchosporion Vegetation | | | |
| 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.) | | | |
| Site Name: Slieve Bloom Mountains SPA, Site Code: 004160 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004160.pdf Site Name: Island Fen SAC, Site Code: 002236 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002236.pdf Site Name: Lisduff Fen SAC, Site Code: 002147 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002147.pdf Site Name: Sharavogue Bog SAC, Site Code: 000585 | | | |

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000585.pdf>

(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)

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|--|--|
| 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. |
| 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. | No other plans known of in the vicinity of the site. The site is sufficient distance from the European site. |

(E) SCREENING CONCLUSION:

Screening can result in:

| | |
|----|--|
| 1. | AA is not required because the project is directly connected with / necessary to the nature conservation management of the site. |
| 2. | No potential for significant effects / AA is not required. |
| 3. | Significant effects are certain, likely or uncertain. (In this situation seek a Natura Impact Statement 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 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.

Name: Úna McCafferkey 

Position: Executive Planner

Date: 14th December 2023