

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 23/55

NAME OF APPLICANT: Columb Kane
ADDRESS: Little Ponderosa, Clara, Offaly, R35 PH02.
ADDRESS FOR CORRESPONDENCE: Little Ponderosa, Clara, Offaly, R35 PH02.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the proposed works of renovating an existing derelict dwelling house is or is not development and if so, are they exempted development.

LOCATION OF DEVELOPMENT: Little Ponderosa, Clara, Offaly, R35 PH02.

WHEREAS a question has arisen as to whether the proposed works of renovating an existing derelict dwelling house is or is or is not development and if so, are they exempted development at Little Ponderosa, Clara, Offaly, R35 PH02.

AS INDICATED on the particulars received by the Planning Authority on the 9th November 2023.

AND WHEREAS Colmub Kane has 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(1) and 3(1) of the Planning & Development Act 2000, as amended; and,

AND WHEREAS Offaly County Council has concluded that the reconstruction of the house **is development and is not 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 works of renovating an existing derelict dwelling house **is development and is not exempted development** at Little Ponderosa, Clara, Offaly, R35 PH02.

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

Date

5/12/23

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. 23/55</i>
Question:	<i>Whether the proposed works of renovating an existing derelict dwelling house is or is or is not development and if so, are they exempted development?</i>
Applicant:	<i>Columb Kane</i>
Correspondence Address:	<i>Little Ponderosa, Clara, Offaly, R35 PH02.</i>
Location:	<i>Little Ponderosa, Clara, Offaly, R35 PH02.</i>

1. Introduction

The question has arisen as to whether the proposed works of renovating an existing derelict dwelling house is or is or is not development and if so, are they exempted development.

2. Background

The existing property is a derelict, two storey, three bay farmhouse. The property is sited to the south of a modern family bungalow within a farmyard development. As the property is in poor state of repair and not been lived in since the early nineteen sixties, considerable renovation works will need to be carried out in order to render the house habitable.



3. Site History

No relevant planning or enforcement history.

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

Section 2 (1) Planning and Development Act 2000, as amended, states as follows:

“house” means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

“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) Planning and Development Act 2000, as amended, defines development.

“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.

5. Proposal by Applicant

The Applicant has advised proposed works of renovating an existing derelict dwelling house. The application is in relation to the vacant property refurbishment grant.

6. 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 renovations and repairs to the existing dwelling.

Question: Is this proposal considered as Exempted Development?

I consider that the works are development and I consider that the works are not exempted development as the dwelling use of the structure on site was abandoned over 50 years ago.

7. Conclusion

It is recommended that the Applicant be advised that the proposed development is **development** and is **not 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 works of renovating an existing derelict dwelling house is or is or is not development and if so, are they exempted development at Little Ponderosa, Clara, Offaly, R35 PH02.

AS INDICATED on the particulars received by the Planning Authority on the 9th November 2023.

AND WHEREAS Columb Kane has 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(1) and 3(1) of the Planning & Development Act 2000, as amended; and,

AND WHEREAS Offaly County Council has concluded that the works of renovating an existing derelict dwelling house **is development and is not 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 works of renovating an existing derelict dwelling house **is development and is not exempted development** at Little Ponderosa, Clara, Offaly, R35 PH02.

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 Pleanala within 4 weeks of the issuing of the decision.



Enda Dolan
Graduate Planner

20/11/ 2023



Ed Kelly
(A/Senior Executive Planner)

Date 5/12/2023

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 23/55

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the proposed works of restoring an existing dwelling house is or is not development and if so, are they exempted development.		
Site location:	Little Ponderosa, Clara, Offaly, R35 PH02.		
Site size:	0.01 hectares	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Clara Bog SAC– 2.92km Split Hills and Long Hill Esker SAC – 6.62km		
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):			
Clara Bog SAC – Features of interest include:	<ul style="list-style-type: none"> • [6210] Orchid-rich Calcareous Grassland* • [7110] Raised Bog (Active)* • [7120] Degraded Raised Bog • [7150] Rhynchosporion Vegetation • [91D0] Bog Woodland* 		
Split Hills and Long Esker SAC	<ul style="list-style-type: none"> • [6210] Orchid-rich Calcareous Grassland* 		
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: Clara Bog SAC Site Code: 000572 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000572.pdf			
Site Name: Split Hills and Long Hill Esker SAC Site Code: 001831 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY001831.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:			
<i>(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).</i>			
If the answer is 'yes' to any of the questions below, then the effect is significant. <i>(Please justify your answer. 'Yes' / 'No' alone is insufficient)</i>			
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:	Enda Dolan 		
Position:	Graduate Planner	Date:	20/11/2023

